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Official Report of Debates (Hansard)

Monday 22 November 2010

Journal des débats (Hansard)

Lundi 22 novembre 2010

Standing Committee on Social Policy

Comité permanent de la politique sociale

Broader Public Sector Accountability Act, 2010

Loi de 2010 sur la responsabilisation du secteur parapublic

Chair: Shafiq Qaadri
Clerk: Susan Sourial

Président : Shafiq Qaadri
Greffière : Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 22 November 2010

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 22 novembre 2010

The committee met at 1403 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I call this social policy committee to order. As you know, we're here to consider Bill 122, An Act to increase the financial accountability of organizations in the broader public sector. Before beginning, I would invite the reading into the record of the last subcommittee report, for which purpose I will call upon the honourable Dr. Kuldip Kular.

Dr. Kuldip Kular, you now have the floor.

Mr. Kuldip Kular: Your subcommittee on committee business met on Monday, November 15, 2010, to consider the method of proceeding on Bill 122, An Act to increase the financial accountability of organizations in the broader public sector, and recommends the following:

(1) That, as per the order of the House dated Thursday, November 4, 2010, the committee meet on Monday, November 22, 2010, and Tuesday, November 23, 2010, during its regular meeting times for the purpose of public hearings.

(2) That, pending approval of the House, the committee hold public hearings in Ottawa on Monday, November 22, 2010, during its regular meeting times, and hold public hearings in Toronto on Tuesday, November 23, 2010, during its regular meeting times.

(3) That the Minister of Health and Long-Term Care be invited to appear before the committee on Monday, November 22, 2010, for a 10-minute presentation followed by five minutes of questions.

(4) That, once Bill 122 has been referred to the Standing Committee on Social Policy, the committee clerk, with the authorization of the Chair, send a notice regarding the committee's business to Canada NewsWire and post a notice regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(5) That, by 3 p.m., Wednesday, November 17, 2010, all the members of the subcommittee (except the Chair) provide the committee clerk with a prioritized list of groups/individuals they would like to invite to appear before the committee.

(6) That, on Wednesday, November 17, 2010, the committee clerk distribute the lists of groups/individuals to be invited to appear before the committee to the subcommittee members for their approval.

(7) That the subcommittee members provide the committee clerk with their approval of the list of groups/individuals to be invited to appear before the committee by 5 p.m., Wednesday, November 17, 2010.

(8) That, once the subcommittee has approved the list of groups/individuals to be invited to appear before the committee, the committee clerk contact these groups/individuals.

(9) That groups/individuals be offered 10 minutes in which to make a presentation and five minutes to answer questions.

(10) That interested people who wish to be considered to make an oral presentation on Bill 122 should contact the committee clerk by 12 noon, Thursday, November 18, 2010.

(11) That, on Thursday, November 18, 2010, the committee clerk provide the subcommittee members with an electronic list of all requests to appear (including the groups/individuals approved under point 4).

(12) That, if all groups/individuals can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(13) That, if all groups/individuals cannot be scheduled, the committee clerk, in consultation with the Chair, reduce the presentation times to 10 minutes.

(14) That, if all groups/individuals cannot be scheduled with 10-minute presentation times, each of the subcommittee members provide the committee clerk with a prioritized list of names of groups/individuals they would like to hear from by 5 p.m., Thursday, November 18, 2010, and that these names must be selected from the original list distributed by the committee clerk to the subcommittee members.

(15) That the deadline for written submissions be 5 p.m., Tuesday, November 23, 2010.

(16) That, as per the order of the House dated Thursday, November 4, 2010, the deadline for filing amendments be 12 noon, Friday, November 26, 2010.

(17) That the research officer provide the committee with a summary of witness testimony by 12 noon, Thursday, November 25, 2010.

(18) That, as per the order of the House dated Thursday, November 4, 2010, the committee meet on Monday, November 29, 2010, for the purpose of clause-by-clause consideration of the bill.

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(19) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report

of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kular. If there are any discussion points or comments, I invite them now before I ask for the subcommittee report to be adopted as read. Madame Gélinas?

M^me^ France Gélinas: I seem to have missed a step. When did the decision not to go to Ottawa take place?

The Chair (Mr. Shafiq Qaadri): My clerk is shy today. But, in any case, she's directing me to offer to you number (2), "That, pending approval of the House...." As I understand it, said approval was not received.

M^me^ France Gélinas: So we're finding out today that approval was not received?

The Chair (Mr. Shafiq Qaadri): I will defer to higher powers. Does anyone want to comment?

Ms. Lisa MacLeod: Who's higher?

M^me^ France Gélinas: Who's the higher power here?

The Chair (Mr. Shafiq Qaadri): Well, currently, I think it's Minister Deb Matthews, but I would offer someone here on the committee—does anyone want to comment? It's not really for the Chair to answer the question, but anyway. Does someone want to comment? Yes, Ms. MacLeod.

Ms. Lisa MacLeod: I'd like to echo my colleague from Nickel Belt's concerns. The official opposition was not notified that the consent was not given to travel to the city of Ottawa. As you will remember, it was myself as an Ottawa area member that requested we meet in the nation's capital.

Given the transparency and accountability package that the federal government undertook about four years ago with the Federal Accountability Act, we felt at the time, both myself and my colleague from Nickel Belt, that it would incumbent upon this committee to travel to the nation's capital to solicit advice from those who had previously engaged in consultation and discussion on greater accountability.

Now, I would put to you, Mr. Chair, in the interest of transparency and accountability, that the decision-making in this committee wasn't transparent, nor was it accountable to the opposition members, given that we were not apprised of the decision by, one might suggest, either this committee or the government. I think it's unfortunate that this has taken place, given the bill we're actually discussing here today.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. The questions do stand before the floor. Are there any comments forthcoming? Mr. Kular.

Mr. Kuldip Kular: Chair, those decisions were made by the House leaders. That's why the meeting in Ottawa was scrapped.

M^me^ France Gélinas: My question is, when was that decision made?

Mr. Kuldip Kular: I don't know. It's the House leaders who decided about it.

Interjections.

Ms. Lisa MacLeod: The question, then, from the official opposition, and I believe as well from the third party, is why were opposition members not notified before now?

Mr. Kuldip Kular: I think all parties should consult their House leaders and then they will have the answer to this question.

Ms. Lisa MacLeod: Would it not be incumbent, then, on the committee to notify members of the committee that the decision made and the recommendation made by the subcommittee was rejected?

Mr. Kuldip Kular: Each House leader—

The Chair (Mr. Shafiq Qaadri): I will just add that in addition to, as you said, Mr. Kular, the consultation with reference to the parties' own internal House leaders, the subcommittee report is circulated to members. When was that done? Do you recall?

Interjection.

The Chair (Mr. Shafiq Qaadri): This subcommittee report was circulated to each of your offices, as I understand it, on November 15.

Ms. Jones.

Ms. Sylvia Jones: But, Chair, clearly the clerk's office must have been notified that the travel arrangements did not have to be made, so the question still stands: When did that notification happen?

The Chair (Mr. Shafiq Qaadri): Agreed. Is anyone willing to take that question, or shall we defer it? What do I need to do here?

Mr. Rick Johnson: I read it on the 15th, so I knew about it.

The Chair (Mr. Shafiq Qaadri): All right. Anyway, I'll invite any final comments you'd like to have on this particular issue, as I don't see any further explanation forthcoming immediately. Ms. Gélinas.

M^me^ France Gélinas: I guess I'm not knowledgeable about all of the processes that go on, but it is frustrating to think that we are going to go to Ottawa. I come from a riding in the north where making arrangements to go to Ottawa could be very—make that very, very—expensive, so I try to be proactive. I try to get ready for this. Then you stay there in limbo, not really knowing: Are we going? Are we not going? Has the decision been made? None of this gets communicated to us. You get an agenda that talks about committee room 1, so I deduced that that was going to be in Toronto. But this is the clerk sending us an agenda. Is this what I should have taken as the decision having been made because she's put that room on the agenda? How come it fell flat like this, that there was no getting back to us on something that has a significant amount of money attached to it?

The Chair (Mr. Shafiq Qaadri): I will invite the clerk to please come forward.

The Clerk of the Committee (Ms. Susan Sourial): I did send out an email along with the subcommittee report, saying that if we did not have House approval by the end of the day, Wednesday, I would assume that we were not going to Ottawa. There was nothing in the

House by the end of the day, Wednesday, so I assumed we weren't going to Ottawa.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod?

Ms. Lisa MacLeod: Just a final note, Chair: It is quite troubling that on a bill where we are engaging Ontarians about dealing with transparency and accountability in government, the government wasn't transparent or accountable to the members of the opposition in how we proceeded with this bill. You'll recall that we had a subcommittee meeting, and the bill hadn't even been referred to committee at that point. The vote on the bill hadn't occurred at that time. The process has been flawed from the beginning of this bill coming to this committee. That's a challenge that I'd like to reiterate. My colleague from Nickel Belt has just brought it up, but again, this is very troubling, given that we are dealing with transparency and accountability and members of the opposition were not afforded the openness we would have expected.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. Any further comments before I invite a proposal for adoption of the subcommittee report? Mr. Kular.

Mr. Kuldip Kular: Mr. Chair, there was time allocation for the Toronto meeting, and no amendments were put forward by any other parties, so it was finally considered that the meeting was going to be held only in Toronto.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kular. Last word. The floor is open. Otherwise I will invite a proposal for adoption of the subcommittee report as read. Going once—fine.

May I invite a proposal for the subcommittee report to be adopted as read, please?

All those in favour?

Ms. Lisa MacLeod: Recorded vote.

Ayes

Dhillon, Johnson, Kular, Lalonde, McMeekin.

Nays

Gélinas, Jones, MacLeod.

The Chair (Mr. Shafiq Qaadri): Subcommittee report, as read, adopted.

BROADER PUBLIC SECTOR ACCOUNTABILITY ACT, 2010

LOI DE 2010 SUR LA RESPONSABILISATION DU SECTEUR PARAPUBLIC

Consideration of Bill 122, An Act to increase the financial accountability of organizations in the broader public sector / Projet de loi 122, Loi visant à accroître la responsabilisation financière des organismes du secteur parapublic.

MINISTRY OF HEALTH AND LONG-TERM CARE

The Chair (Mr. Shafiq Qaadri): I'd now invite our presenters to please come forward. As you know, the committee has respectfully invited—and the invitation has been accepted—the Honourable Deb Matthews, MPP for London North Centre and Ontario's Minister of Health and Long-Term Care.

Minister Matthews, I welcome you on behalf of the committee. Just to inform yourself as well as others, you'll have 10 minutes in which to make your presentation, and five minutes remaining after that for questions. The time will be enforced with military precision. I invite you to please begin now.

Hon. Deborah Matthews: Thank you very much. Good afternoon, Chair, members of the committee and presenters. I'm very pleased to be here to appear before this committee meeting to speak to our proposed Broader Public Sector Accountability Act.

This is an act that, if passed, would raise the bar on accountability and transparency for hospitals; for local health integration networks, or LHINs; and for broader public sector organizations.

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Let me first say how happy I am to see the diversity of points of view of the individuals and organizations that are appearing here today and tomorrow. Before I was appointed minister, I had the opportunity to serve on four standing committees, and it is from that experience that I learned just how much of a contribution members of the public and committee members can make when it comes to improving legislation before it is passed into law. I know that I can speak for government members and for my parliamentary assistants, Dr. Kular and Mr. McNeely, that we welcome constructive suggestions aimed at strengthening this bill.

I'd like to tell you a little bit about why this bill is before you for consideration today. Back in 2004, our government passed legislation that expanded the scope of the Auditor General to include broader public sector organizations, including hospitals, which past governments had refused to do. Last year, the Standing Committee on Public Accounts, on which the government has a majority of members, asked the Auditor General to look specifically at the use of consultants at hospitals and at LHINs. In his report, the auditor outlined certain practices by some hospitals and LHINs that simply cannot be allowed to continue. As I said then and as I say today, the findings of the auditor are simply unacceptable. They are very disappointing, and they are unacceptable.

Our government fully accepts the recommendations of the Auditor General and thanks him and his staff for the work they did to produce the report. We are implementing each and every one of the recommendations, and

with this proposed legislation, we are going even further than the Auditor General recommended. We're taking this strong action in order to send a very clear message: It is unacceptable to our government for organizations to use precious public dollars for lobbyists instead of for health care or for education or for the other programs they were intended to fund.

In his report, the Auditor General mentions that while there have been improvements when it comes to procurement of consultants at my ministry and at LHINs, it is clear there is more work to do. When it comes to the use of consultants at hospitals, the current situation is not acceptable, so we're setting new rules—something previous governments failed to do.

Let me remind you of the government's record when it comes to increasing transparency and accountability by providing some examples. We've introduced strict new procurement rules for all ministries and all agencies, and are publicly reporting expenses. We expanded the power of the Auditor General to review hospitals, colleges, universities, school boards and crown corporations. We've brought Cancer Care Ontario, universities, Hydro One, OPG and local public utilities under the requirements of the freedom-of-information legislation.

This proposed legislation would, if passed, raise the bar even further and bring a higher level of accountability and transparency to broader public sector organizations. This action is intended to restore integrity in the use of public funds and to elevate the importance of value for money.

We're proposing to ban the practice of hiring external lobbyists with taxpayer dollars in hospitals, other large public sector organizations and publicly funded organizations that receive more than $10 million in government funds. We're proposing to require large broader public sector organizations to follow strictly our tough new expense and procurement rules. We're proposing to require all hospitals and LHINs to report on their use of consultants and to post online the expense claim information for senior leadership. We're proposing to require that all hospitals and LHINs sign attestations that they are in compliance with the new procurement requirements. And we're proposing to make hospitals subject to the Freedom of Information and Protection of Privacy Act, effective January 1, 2012.

The Personal Health Information Protection Act would continue to govern all files containing any type of personal health information. No identifying information would be released by hospitals through freedom-of-information requests.

Finally, if senior executives of hospitals or LHINs fail to comply with these tough new rules, their pay could be reduced.

These measures are necessary to protect the interests of taxpayers and to strengthen the government's accountabilities for the organizations it funds.

Prior to introducing the legislation in October, I made our position very clear when I spoke with hospital and LHIN leaders and told them that the Auditor General's findings were unacceptable and that I was deeply disappointed.

The bottom line is that this is all about protecting the interests of taxpayers, the people who are paying the bills. That's why I'm absolutely focused on getting the very best value for our health care investments, it's why we fought so hard to cut the price of generic drugs in half and it's why we're raising the bar for accountability and transparency.

This legislation, if passed, would also act in concert with and reinforce the principles of our government's Excellent Care for All Act, which are that strengthened accountability and the prudent use of health care resources mean better value for the system and improved outcomes for Ontario patients.

As leaders, we have but one goal: to ensure that we are doing everything we can to improve public services for all Ontarians. The proposed legislation would strengthen procurement rules and increase accountability and transparency in Ontario's broader public sector. That would go a long way toward protecting the integrity of public services in Ontario. Ontarians deserve nothing less.

The Chair (Mr. Shafiq Qaadri): Thank you, Minister Matthews. We'll have about seven or eight minutes in total, so perhaps two and a half minutes a side, beginning with the PC caucus. I'd invite Ms. MacLeod to start.

Ms. Lisa MacLeod: Welcome, Minister. I appreciate you taking the time here today.

In May 2010, the Ontario PC caucus put forward a private member's bill that adopted the Ontario Hospital Association's advice. We did this six months ago, and the Ontario Liberal Party voted against it; it whipped its vote.

Now you're coming here today to tell the Legislature and the public that you accept the Auditor General's findings, and this proposed legislation is before us now.

The question is, did you even look at Bill 39 when it was introduced? If you had, why didn't you support it at the time?

Hon. Deborah Matthews: I'm happy to answer that question. There were a couple of things that were in your bill that I had difficulty with. The first was, it did not go as far as our legislation goes. It did not bring hospitals under freedom-of-information legislation. I think it's important that hospitals be subject to freedom of information. I know that is going to be difficult for hospitals. I know that they are going to have to put resources into complying with freedom-of-information legislation, but I do think it is the right thing to do.

Ms. Lisa MacLeod: Minister, you're actually wrong. Our bill did open up freedom of information to hospitals. It also opened up freedom of information to other public bodies. This bill doesn't do that. This bill only requires expenses to be disclosed at hospitals and LHINs, not all provincial public bodies. It also only requires reporting on consultants and not all contracts for goods and services at all provincial public bodies. In fact, this bill falls far short of where the official opposition would like to see transparency and accountability when it comes to taxpayer dollars.

In addition to that, Minister, it was disappointing when the Minister of Government Services said, back in 2010, that your government already had good measures in place, and furthermore, that the member from Mississauga–Streetsville went as far as to say that this kind of legislation that you're actually proposing right now would become too bureaucratic.

I guess the question is, who's right? Are you right or are your colleagues right?

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod, with respect, I need to intervene there and offer the floor now to Madame Gélinas. You have 2.5 minutes.

Hon. Deborah Matthews: Chair, could I just correct myself? I apologize.

The Chair (Mr. Shafiq Qaadri): You're welcome, but the floor is now Madame Gélinas'.

Hon. Deborah Matthews: Okay. I'll correct myself when I get a chance, but I do owe a correction.

M^me^ France Gélinas: Go ahead.

Hon. Deborah Matthews: I just want to correct myself. Your bill would not ban lobbyists; this bill does ban the use of lobbyists.

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The Chair (Mr. Shafiq Qaadri): That's on your time, Madame Gélinas, but go ahead.

M^me^ France Gélinas: You'll owe me 15 seconds somehow at some point in your life.

Hon. Deborah Matthews: I'll get it to you somehow.

M^me^ France Gélinas: My first question has to do with this bill trying to do something good towards banning the use of lobbyists. Why is it restricted to the funds allocated by your ministry? Why not make a statement as to, "We will not respond to lobbyists," making the practice illegal rather than just tying it to the money? The second one is, if you want accountability—so many people are asking for Ombudsman oversight. My two questions.

Hon. Deborah Matthews: Your first question—why don't we ban the practice outright?—was a question I had when we were developing the legislation, and the answer is, we simply don't have the right to tell people what to do with the money that they collect from other sources. If the money comes from a foundation, unfortunately we don't have the ability to limit what they do with that money.

But what I can tell you is that we have made it very clear to the people on our political staff and the people within our ministries that we don't deal with lobbyists. If a hospital foundation, for example, wanted to use their money to hire a lobbyist, it would be kind of a foolish decision because we are not going to answer the phone. We are not going to accept those meetings from lobbyists.

M^me^ France Gélinas: And the Ombudsman?

Hon. Deborah Matthews: This again is an issue that I know you've been advocating for some time. We think that expanding freedom of information is a really important step. We know that that will be a burden for hospitals—

The Chair (Mr. Shafiq Qaadri): Merci pour vos questions, Madame Gélinas. I'll pass the floor to the Liberal side, Mr. Kular.

Mr. Kuldip Kular: Minister, thank you for speaking to the members of the standing committee. As you know, the official opposition introduced a bill this year that would have not banned lobbying with public dollars. Can you say why this is so important to have this bill put to the Legislature?

Hon. Deborah Matthews: The issue of hospitals or other broader sector organizations hiring lobbyists to make their case to government is one that has gone under governments of every political stripe. There is no party that can say it didn't happen under their watch. What we can say, though, is that we are putting an end to this practice under our watch.

I am of the strong belief that part of the job of the MPP is to advocate for organizations within their riding. It's what we get paid to do. I think that to try to circumvent that with paid lobbyists isn't acceptable because, first of all, that money should be going to health care, education or the purpose for which it was intended.

Secondly, as MPPs, we have responsibilities, and I know that as I look down the line I don't think there is one person in this room who has not advocated on behalf of the organizations in their constituency.

The time for that practice is now over, and I think it's the right thing to do. We're at a time where we have tremendous demands on our health care system. You all know that. I want every penny we spend on health care going to improve health care.

Mr. Kuldip Kular: Thank you, Minister.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kular, and thanks to you, Minister Matthews, on behalf of the committee, for coming forward.

Ms. Lisa MacLeod: Point of order, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: I just wondered while we're having this discussion—I'm not sure if you're aware that the community health centres are coming here next week, I believe, to lobby us on taxpayer dollars with receptions and the like. I just wanted to leave that to the minister, while she's here, to decide if that's appropriate use of taxpayer dollars.

The Chair (Mr. Shafiq Qaadri): I believe you're welcome to ask the minister but not at this forum. Thank you, Minister Matthews.

Hon. Deborah Matthews: Thank you very much.

ONTARIO COUNCIL OF HOSPITAL UNIONS

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward, the Ontario Council of Hospital Unions: President Hurley; research representative Mr. Allan; and legal counsel Mr. Barrett. Welcome, gentlemen. I'd invite you to please take your places and to please identify yourselves, as your words are forming the permanent record of Hansard.

Thank you, and please begin.

Mr. Michael Hurley: Michael Hurley, president of the Ontario Council of Hospital Unions of CUPE.

Mr. Steven Barrett: Steve Barrett, counsel for CUPE.

Mr. Doug Allan: Doug Allan, Canadian Union of Public Employees research representative.

Mr. Michael Hurley: Thank you very much for allowing us to present on this legislation. We'd like to thank the government for introducing the legislation and for seeking to cover off a number of concerns arising from some problems we've had in the administration of the public sector in Ontario. We will be hoping that there will be some amendments to the legislation, and we'll touch on those areas as we go through the bill.

We believe that the next election will have the economy as a central focus, and certainly there's no question that many of our communities across Ontario have been hard hit by the recession. One of the significant concerns we have is that the procurement issues addressed in this bill may have the effect of discouraging local procurement. We were in a government cafeteria, and there's a very laudable campaign here encouraging support for local farmers. We are worried that the way the bill constructs the procurement issues, it could in fact have the opposite effect: It could discourage buying produce from local farmers. It could discourage the purchase of produce etc. from small businesses in communities which are already struggling in Ontario. I think that that should be a concern to all of us.

We're also concerned because—we're sure it's not intended by the government, but the bill does allow for override of existing agreements. Certainly, we have in place collective agreements which deal with outsourcing and procurement issues. We're sure it's not the government's intention to override those provisions, but we're worried about that.

Mr. Barrett and Mr. Allan are going to cover the other areas here.

Mr. Steven Barrett: So let me follow up. I'm told I have three minutes, but I'm a lawyer, so it's going to be tough for me, as you can appreciate.

The Chair (Mr. Shafiq Qaadri): You have 10 minutes, and a total of five minutes for questions. It's your decision how you distribute that—

Mr. Steven Barrett: I've been given three of our 10. I have three of our 10, so I've already—

Interjection.

Mr. Steven Barrett: Yes, exactly; that's what I always do.

So I'm going to focus on the procurement provisions and OCHU and CUPE's concerns around them. Mr. Allan's going to focus on lobbying, consultants and the FOI provisions.

On procurement: If you have the brief, we deal with it on pages 3 and 4. We have four main concerns. The first, which is dealt with in the third and fourth paragraphs on page 3, is that the bill simply isn't clear in providing the power to Management Board of Cabinet to issue binding directives when it comes to procurement. The bill could be interpreted as allowing, for example, the imposition of a system of competitive bidding on hospitals, community care access centres and LHINs requiring that contracts be given to the lowest bidder, regardless of the effect on quality, accessibility, patient well-being and so forth. I won't go through it, but we detail the experience of communities and CUPE members in the home care sector, where competitive bidding has had a particularly destructive effect.

Secondly, as Mr. Hurley alluded to, we're concerned that in providing in the bill—particularly in section 21 of the bill—the procurement provisions that might be imposed, the directives can override agreements. We're sure this isn't the intent, given the commitment of this government to respecting collective agreements, but it could be interpreted as providing that procurement directives would override collective agreement provisions, including job security protections that CUPE negotiated many years ago. So we're looking for an amendment that would make clear that nothing in the legislation is intended to override freely negotiated collective agreements.

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Third—and this is dealt with in the fourth paragraph on page 4, if you flip the page—we're concerned that by leaving to a Management Board directive, and not even regulation or legislative debate, questions about the terms of procurement, there's a risk that significant decisions will be made, including decisions that undermine an initiative of the government itself around local procurement, which would obviously not, from our perspective, be in the public interest. In our view, those sorts of decisions, including the possibility of precluding preference for local producers and procurement policies, ought not to be something that's imposed in the background. If it's going to be done, it ought to be debated publicly and not left to the directive. Obviously, we don't think it's a good idea.

Finally, on the question of procurement, and consistent with this bill's commitment to transparency in the conduct of government business by third parties, as we say, just as the bill imposes reporting requirements for consultants and requirements to make information relating to expenses public—and Mr. Allan will talk about how that ought to be expanded—it also ought to be the case with any contracts for goods and services that are subject to procurement policies, for example. They ought to be open to the public to examine and inspect, and that's consistent not only with the transparency thrust of the bill but with the accountability thrust of the bill.

Mr. Doug Allan: Wow. That was amazing.

Three minutes? Okay.

I want to just add on and talk about some of the actual positive parts of the bill, but which are unevenly applied to only the public sector, which we think is very interesting.

Firstly, the limitations on lobbyists: Again, while this will affect hospitals, among others, publicly funded for-profits will be entirely excluded from that provision.

They may be funded at up to 100% of all of their revenues, but because they are a for-profit, they are excluded from the restrictions on limitations, which we think are probably beginning to create an uneven playing field, especially in the context of the increasing privatization of our hospital and health care services.

Secondly, there is a similar sort of problem where the for-profits are excluded again: reporting on subcontracting, executive expenses or freedom of information. Again, in the context of the growing privatization of our health care services, we think this is quite alarming.

The change that is proposed around all of these areas is entirely appropriate, and I suspect it would be met with great outrage if it was applied to the for-profit providers of health care services, where the sense is, repeatedly, that they are a private business and they will carry on for their private needs.

The public sector is an utterly different situation where there is an expectation of transparency, openness and accountability. That is one area where it really does demonstrate that for publicly funded services, it is appropriate to publicly deliver those services in order to get the accountability and transparency that we all desire. Given the constraints of commercial confidentiality, that is not likely to happen in the for-profit area.

Finally, the last point that I want to touch upon is that there is a requirement for reports on consultants where there has been subcontracting to consultants in the hospital sector, for example. This comes out of two scandals which have emerged, first with eHealth and then with the hospitals themselves.

Again, it's very appropriate that these consulting contracts be reported, but that is just the tip of the iceberg. Consulting is only focused on managerial services and professional services, i.e. the services provided by non-unionized employees. There's a much larger contracting out and subcontracting that goes on that affects unionized employees, which is totally excluded from this reporting requirement. We think that the reporting requirement needs to be expanded to cover the lion's share, where the major cash is involved and where the major savings can be achieved. So we think that there should be reports, not just on that narrow part of the contracting out that goes on in our public—

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen. I'll intervene there. Je passe la parole à M^me^ Gélinas. Vous avez une minute et demie.

M^me^ France Gélinas: Thank you very much for coming here today. It was a very interesting presentation.

I have two things I would like to bring forward. The first one is, can you give me an example where you're afraid contracting out will become easier because of this bill?

Mr. Steven Barrett: I think our concern is that there are currently negotiated provisions providing for limits on contracting out by hospitals in CUPE collective agreements and throughout the sector. What this bill may be interpreted as meaning, in section 21 in particular—it says that where an agreement conflicts with a requirement under the bill, including a procurement directive, the agreement isn't valid or enforceable. So if the procurement directive came up with criteria that failed to respect collective agreements, it could be argued under this language that the procurement directive would override the collective agreement, and thereby, since the collective agreement is intended to protect the delivery of public services, it could override that collective agreement protection.

The bill doesn't have to be interpreted that way. What we're simply urging is that it be amended to clarify that nothing is intended to override collective agreements and thereby make contracting out—

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. To the government side: Mr. Kular.

Mr. Kuldip Kular: Thank you for appearing before the committee. As you know, this bill, if passed, would implement recommendations from the Auditor General requiring hospitals and LHINs to report on their use of consultants and banning public sector organizations from using public funds to hire lobbyists. Do you support those aspects of the legislation?

Mr. Michael Hurley: Well, we are concerned. We represent the staff of public hospitals, and there is competition for capital funding; there is competition for additional operating funding over the course of a budget year. Hospitals are engaged in lobbying for those funds. We are concerned that the hospitals are being subjected to a restriction that will not apply to other parts of the health care sector. Either there should be an outright ban on lobbyists for everyone, including, for example, the for-profit chains like Extendicare, who are lobbying hard to offer essentially hospital-like services in a different setting—the ban has to apply to everybody. It's unfair simply to apply it to hospitals.

The Chair (Mr. Shafiq Qaadri): Thanks, Mr. Kular. To Ms. MacLeod.

Ms. Lisa MacLeod: It's great to have you here.

I have a quick question. Do you think that the ministry has the enforcement mechanisms to hold people who don't abide by these rules accountable?

Mr. Steven Barrett: I'm not quite sure that I completely understand your question. I don't think our concern is so much with enforcement as with the substantive rules that this bill is setting out and, as Mr. Hurley just said, the lack of a level playing field between public not-for-profit providers and for-profit providers, and the risk that collective agreements could be overridden. That would be effective enforcement. It wouldn't be effective public policy.

Mr. Michael Hurley: There are mechanisms available to the ministry through the agreements that they enter into with health care institutions through the LHINs for funding which could mandate certain obligations and which could be enforced using the funding power.

Ms. Lisa MacLeod: The reason I ask is, as you know, the Premier came out and said that the 22 biggest agencies are going to have to submit their expenses online,

and still, some of them haven't done that, a year after promising.

The other reason I ask is, Liberal member Bob Delaney from Mississauga–Streetsville contends that a bill like this would "create a monstrous, paper-shuffling, red-tape-creating, money-gobbling bureaucracy...." Do you agree with that?

In terms of accountability, before this government got caught with the recent Auditor General problem, the Liberals said that they had done—

The Chair (Mr. Shafiq Qaadri): Once again, with respect, Ms. MacLeod, I'll need to intervene there.

I'd like to thank you, gentlemen, Messrs. Hurley, Allan and Barrett, for your deputation on behalf of the Ontario Council of Hospital Unions.

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MR. ALLAN CUTLER

The Chair (Mr. Shafiq Qaadri): Our next presenter is coming to us via conference call. Mr. Cutler, are you there?

Mr. Allan Cutler: Yes, I am.

The Chair (Mr. Shafiq Qaadri): Hello, Mr. Cutler. It's Dr. Qaadri. You're live before our parliamentary committee. As you know, you have 10 minutes in which to make your presentation, and five minutes remaining after that for questions. I invite you to please begin now.

Mr. Allan Cutler: I'd like to thank you for inviting me, to start with.

To me, when I read the bill, the issues are transparency and accountability. What I'd like to do is set the scene, if I can, and remind you that the party in power will one day be in opposition. It might be next year, it might be five years from now or it could be longer. The issue isn't when; the issue is that one day it will happen. We're a democracy.

So the question is, do you want the ability to have the freedom of information and the ability to find out about corruption and wrongdoing in government when you become in opposition? It becomes an important factor to consider for the long term—not the short term, not immediately.

When I testified at the federal level, I put the same point in front of them: to think about the day that they're sitting on the opposite side and they are saying, "Hey, we can't find out what's going on." So don't think about the present; think about the future.

Another question that comes up is, what type of province do we want? Again, I'm talking very generally; I'm not talking about the bill specifically at this point. What values do we want represented in this province? Honesty, integrity, accountability. Then it becomes, "What type of province do we want for our children and grandchildren?" because we all have them, and so we're going to have to look at the future. I know what type of province I want my grandchildren to inherit. But laws, from a transparency viewpoint, are tools. They're protecting against future corruption and giving the people a right to know.

Now, to talk about this particular bill, I have major problems with it. From my viewpoint—and I've read through it—the law as written is totally meaningless, and it's meaningless for a simple fact: There are no consequences spelled out in the bill for noncompliance, and if there are no consequences, there's no reason that they should comply. This has been found out at the federal level with the accountability act, where there are obligations on deputy ministers, and it has already been noted that they are not fulfilling the obligations. But there are also no consequences written into the bill. That's something that will be addressed at the time the bill comes up for renewal. It's an important issue. There's no point in telling people they have to do something unless you say, "If you don't, this is what happens."

To go into the bill a bit further, I would like to see all contracts over $10,000 publicly posted. It's a good tool in terms of accountability and transparency. The federal government does it, and from my viewpoint, that would take care of the issue of consultants, because they would just pop up and everybody would get to see what's happening. So if you use a consultant for a good purpose, don't be afraid to post it online where everybody can see it.

Now, the other thing, and it goes into the procurement standards, part V, and it goes into expenses and lobbyists—it goes every place, actually. The bill keeps stating that you "may issue" directives. Well, "may issue" also means "may not," and there are no standards as to what those directives would be. Now, I understand the intent is to extend it out to hospitals. I believe that it should be extended out to everybody. Everybody who is receiving public funds should be accountable for it, and we should be able to look into what they're doing with the money. So there's that, but "may not" is important in that.

The other one states early on that organizations or sectors may be exempt, and that goes, I think, into part I.

Imagine, for instance—and this has happened, or it can happen—you have an organization, and you suddenly find there's a huge problem within the organization. It takes a simple swish of a pen signing a name to exempt them from the fact that the information can come out. Suddenly you can cover up and hide, just by one signature on a letter. That's scary, and that really, really does concern me.

The other thing that bothers me tremendously in this is the whole issue of self-discipline or self-regulation bodies. They exist throughout the province, and they don't have any oversight. This goes into the Ombudsman's role. The teachers are one; generally, the doctors are another. All these roles, all these discipline bodies, start out with good intentions, and, by God, do they mean it: "We will do the right thing. We will report the information at all times. We will show the world exactly what the problem is." The problem is, sooner or later—and it's happened to all of them—something comes up and they say, "If the information got out, it would embarrass our organization," so they change their decision,

instead of doing what they said they would do. Sooner or later, somebody they know who is powerful, or a friend of theirs in the organization, comes along and they modify it because they know the person. Again, they do it. This always happens. Once they start on that slope, it gets worse and worse.

The other thing I want you to think about—and I may not even use my full 10 minutes—is the fact that I'm going to make a statement that there is corruption going on in the provincial bureaucracy that none of you know about, and I mean opposition or the government in power. Nobody knows about it at the political level, and it's existing there. Why do I say that? Because whistleblowers come my way and we hear about things, so we know about some things that are going on.

Why don't you know about it? It's simple. Who controls the information flow? It's the senior bureaucracy; it's the senior bureaucrats who control the information flow. Who benefits by closing down the information? It's the senior bureaucrats. They don't get found out.

If it comes out, who gets blamed? It's the politicians; it's not the bureaucrats. You bear the brunt, but they get to do whatever they want, and you can't control them. It's been proven time and time again: They're a law pretty much unto themselves, and that's a shame.

One of the few tools that sits there is the openness and transparency of freedom of information, the ability to get in there and find out what's going on and open the doors. So I would ask you to open the doors and windows and let the sun, the transparency, shine in, and to stop having these people work behind closed doors, keeping their secrets, guarding themselves, preventing disclosures of wrongdoing, and preventing that to the party in power and everybody.

This bill, as written, is a small step, but it's only a step, and it can be corrupted very, very fast without—it's made with goodwill, but it can be corrupted. What's needed is to have freedom of information for all government and public sector organizations. You need to let the Ombudsman go wherever he needs to in the public sector, to look at things. I don't know if the Auditor General already has that right, but if they don't have the right, you should give them that right too.

Gentlemen and ladies, thank you very much for biding by me and listening to me rant and rave for a few minutes.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Cutler. We have about a minute and a half per side for questions, beginning with the government. Mr. McMeekin.

Mr. Ted McMeekin: Just quickly, Mr. Cutler, this bill is one of several bills. There was a bill, the Public Sector Expenses Review Act, which the opposition opposed, which would have brought some more accountability. But this is in direct response to the Auditor General's report. Have you read that report?

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Mr. Allan Cutler: No, I haven't had the privilege of reading it.

Mr. Ted McMeekin: So you wouldn't be able to comment, then, on whether or not you support the recommendations that the Auditor General, who was given review oversight, made with respect to these issues?

Mr. Allan Cutler: Generally speaking, I would tell you that I would probably support them because I have a lot of respect for the Auditor General, but I wouldn't give an unconditional answer without reading it, no.

Mr. Ted McMeekin: Okay. Just so you know, we're predicating our response on it and we're actually implementing every recommendation the Auditor General has made.

Mr. Allan Cutler: I would then say that the Auditor General didn't go far enough.

Mr. Ted McMeekin: You would say that without having read the report?

Mr. Allan Cutler: Well, you just said you're implementing what was recommended. I'm saying if that's the case, then there's more that should be done. I would assume the Auditor General is reporting strictly on the hospital situation or the eHealth situation.

Mr. Ted McMeekin: It's somewhat broader than that.

Mr. Allan Cutler: Okay, but I believe in a broad base, and you're telling me they did—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McMeekin. To the PC side: Ms. MacLeod.

Ms. Lisa MacLeod: Thank you very much, Mr. Cutler. I'm not sure that all of those in the room here today have a full understanding of the breadth of wisdom that you bring to this table with respect to transparency and accountability. For their benefit, I think I'd like to point out to them that you are the renowned whistleblower who uncovered the sponsorship scandal that rocked our federal Parliament and our federal civil service, and that you were also a key witness at the Gomery inquiry. That's why you were called.

My colleague Mr. McMeekin had mentioned that this is part of a series of pieces of legislation. I might point out that it seems that each time the Auditor General or the Ombudsman comes out with something, a piece of legislation in reaction to that is put forward.

The question I have for you: Given your experience at the federal level and given the federal government's ethics package and its Federal Accountability Act, which was a fairly well-laid-out and thoughtful piece of legislation, why do you think Ontario is at least four years behind our federal government in putting forward meaningful and strong legislation?

Mr. Allan Cutler: I couldn't answer why they're four years behind. I think the federal legislation had all-party support as it went through the House, which was good.

We have now learned that it could be even better. By the time any legislation gets passed at the provincial, we'll be working on the federal to move it ahead again.

Ms. Lisa MacLeod: You had mentioned your support for the public posting of all contracts and contributions over $10,000 at all public sector bodies online—

The Chair (Mr. Shafiq Qaadri): I apologize, Ms. MacLeod, for interrupting you. I'd now invite Madame Gélinas.

Ms. Lisa MacLeod: You're good at it.

The Chair (Mr. Shafiq Qaadri): It's a practised effect.

M^me^ France Gélinas: Two very quick questions: The first one is that I agree that we need more oversight. We will now have the Auditor General looking at hospitals. We also will have freedom of access to information. I've always been asking for Ombudsman oversight, so my first question is, do you support it? How do you see the Ombudsman complementing what we have?

The second one is that in the bill that is in front of us, we completely exclude the for-profits, yet in Ontario, more and more long-term care is dominated by for-profits; home care is dominated by for-profits. We see for-profits providing more and more services in our hospitals—maintenance and P3 etc. Comments on those from you, please?

Mr. Allan Cutler: I will at least comment on the Ombudsman. I support the ability to open up and expose anything to daylight. My comment on the Ombudsman is let the Ombudsman go in and look at anything. An Ombudsman has the power of public opinion. The Ombudsman does not need the power of enforcement to get the message out and get the situation out. The fact that he can look at things will chase people away and stop corruption.

In terms of health care, I would have to actually look at the situation, but every doctor is a private business of their own, too, so I think we have a real mix in the system now. We have had a mix.

M^me^ France Gélinas: Thank you.

The Chair (Mr. Shafiq Qaadri): I will need to intervene there. Thank you, Mr. Cutler, for coming to us via conference call.

CANADIAN ASSOCIATION OF MANAGEMENT CONSULTANTS

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters, from the Canadian Association of Management Consultants, to please come forward: Mr. Yonemitsu and Mr. Lundeen. Welcome, gentlemen. I'd invite you to identify yourselves, and please officially begin now.

Mr. Glenn Yonemitsu: Thank you for this opportunity. My name's Glenn Yonemitsu. I'm the chief executive officer of the Canadian Association of Management Consultants. I have with me my colleague Richard Lundeen. He's a member of the Institute of Certified Management Consultants of Ontario's board. He also serves as the chair of the advocacy committee.

The Canadian Association of Management Consultants was established in 1963 by major industry players to help educate and develop the management consulting industry in this country. The certified management consultant designation was formally recognized by statute here in Ontario in 1983, and it was the first location in the world for that. At the current time, it's now recognized in over 50 countries. Ontario has been a leader in this whole area.

CMC-Canada and our institute in Ontario have rigorous requirements so that consultants could earn the CMC designation. It consists of education, experience, peer review and a national final exam, and there are annual professional development requirements to maintain their designation.

I'd like to highlight that management consulting is perhaps a bit different and more specialized than just the generic term of consulting. Management consulting is the objective, value-added provision of expert advice. I'd like to highlight that it must not be confused with contracting.

Management consultants, as highlighted by the Ontario Auditor General, provide expert advice, they share best practices, they bring benchmarks from industry and in a very important role, they lead change within organizations.

The management consulting industry in Canada is a $9-billion industry, and through 20,000 consultants, it helps Canada compete in the world. If I could just highlight that it's not body-shopping, it's not the temporary augmentation of labour; this is expert, independent advice.

Why are we here? Because certified management consultants are different than your generic management consultants. We adhere to a uniform code of professional conduct that binds all the members who have the CMC designation. I'd like to highlight that at the back of the handout a copy of our uniform code is included.

What I'd like to highlight is the fact that CMCs must recognize the interests of the client organization. They must reach a mutual understanding with the client on the deliverables, the objectives and the process. They must establish fee arrangements in advance of starting on the contract. Most importantly, they must not enter into engagements where the cost of the consultant exceeds the value to the client.

Specifically, our code addresses the consultant's responsibility to the public interest. There are four groups of people and stakeholders that this code addresses: the client, the public, the profession and other members. There is a complaint, investigation and discipline process in place to ensure adherence and compliance with the code.

Management consultants provide specialized expertise and capacity that help organizations to achieve their goals and allow their employees to focus on their primary responsibilities.

In our most recent industry study in 2009, we found that the private and the public sector utilized consultants at very comparable levels. The province of Ontario's use of consultants is selective. The Ontario government's spend on consultants equates to just 6% of the Ontario public service payroll. I must add that the spend—the number that we were able to gather—includes the amount that is spent on contracting, so the real spend is actually less than that. It really proves that there is selective spending on management consultants.

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As I mentioned before, the Auditor General, in his recent special report, indicated that consultants play an

important role in the health care sector, and they really help the health care sector achieve their objectives.

We have some examples on how management consultants have helped the public sector. In a procurement program involving eight large government ministries, there were savings of over $140 million, with an additional $50 million in longer-term savings. At one of our tax revenue organizations, the results were a collection of an additional $100 million in taxes. And finally, within the supply chain operations, one of the improvements will help save the client millions of dollars in procurement costs through more effective contract negotiation and use of contracts.

How this specifically relates to Bill 122 is this: We agree with the whole intent of the proposed legislation—to create a more transparent, fair process—but having said that, the word "consultant" is used in a very broad and generic format. It doesn't differentiate between HR consultants, IT consultants, contractors, lobbyist consultants or management consultants.

We'd like to ask that the definition be clarified to specifically deal with the consultants in question. We have included in our presentation and our handout a suggested definition for "consultant," which is, "a person or entity retained under a fee-for-service arrangement, that is not an employment agreement, to provide advice to clients on an as-needed basis." This differs from a contractor, which is "a person or entity retained under a fee-for-service arrangement, that is not an employment agreement, to perform specific tasks under the client's direction for a limited period of time."

These are very different roles, and we ask that in this bill, you consider the definition, the reporting and the treatment differently.

Our second request is that the procurement process that you contemplate—we already stated that we agree that it's doing the right thing, but we want it to be workable. It must be cost-effective, or the cost in dollars and time to the organization procuring the services will be increased.

For example, with small projects, if they are to do the same type of due diligence and write the same type of proposal, then you're going to get less competition. It's going to take more time in order to get the required proposals, and there will be significant costs to the procurer.

In conclusion, legislation like Bill 122 can have the unintended consequence of negatively impacting upon an industry, and we believe that our recommendations will help bring clarity to the different roles which are covered by this bill.

We are prepared to help, and we would welcome consultation with the implementation team if Bill 122 is passed.

We'd like to suggest that you consider the certified management consultant designation as a preferred criterion for the procurement of management consultant services.

We hope that some of our suggestions might make a better bill. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. Two minutes a side, beginning with the PC caucus: Ms. MacLeod.

Ms. Lisa MacLeod: Thanks, guys, for coming in. That was a refreshing take on this legislation. I think it's important to bring in credible folks like yourselves to talk about how bills in this chamber actually impact people's way of life.

I have a quick question. How amenable would you and your organization be to disclosing hospitality expenses each time you are consulting with the government?

Mr. Richard Lundeen: I guess I need some more information about the context you're asking—

Ms. Lisa MacLeod: If you are taking a trip on behalf of a client that is a crown entity, or taking out a client who you're working with in the government, and you're expensing that, would you post those expenses online?

Mr. Richard Lundeen: My understanding is that hospitality expenses are not permitted to be charged as consultant expenses at the present time. Other—

Ms. Lisa MacLeod: Wow. Where have you been all of our lives? Significant abuses of that have occurred, and this is why this legislation is being brought forward.

Mr. Richard Lundeen: The rules have changed and we have no disagreement with those rules. But the disclosure of travel expenses definitely would make sense.

Ms. Lisa MacLeod: That's excellent. That's refreshing.

The other question I have is: What about contracts over $10,000? Would you be comfortable having those posted online?

Mr. Glenn Yonemitsu: We're in favour of a more transparent, fair process, and if that's what it takes to produce that, we would be in favour. Our comment is really based on the fact that it must be commensurate with the size and the scope of the project. If you have too many RFPs that require a week's worth of effort for a $10,000 project—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. Madame Gélinas.

Ms. Lisa MacLeod: Thanks, guys.

M^me^ France Gélinas: You get used to being cut off after a while.

I'd like to fully understand. Some of what really horrified people in the Auditor General's report were things like: Somebody works at a hospital at an executive level, leaves his job, and then, a week later, he gets rehired as a management consultant for $100,000 more than he was making before, with all of the same privileges, pension plan etc. that he had before. How would those people belong to your organization, and do you see anything wrong with this?

Mr. Glenn Yonemitsu: I don't believe that those people are management consultants. Those are contractors, and I think it gets confused with the definition that they use—the generic definition of the word "consultant."

M^me^ France Gélinas: So you feel that "to provide advice to a client on an as-needed basis" would cover off this person who is in a management role in a hospital but

being paid under a management consultant title—in your definition, that would not be a management consultant?

Mr. Glenn Yonemitsu: This person is filling a role that is normally occupied by a full-time equivalent management person, and they're in the role, in the example of the Auditor General's report, for seven years. That sounds like it's an employment contract.

M^me^ France Gélinas: So it wouldn't meet the test of your definitions? Okay.

I agree with you: Management consultants sure play a role. They bring expertise that hospitals or others don't, and that's why you go get an expert to come and help you. As my colleague has said, there has been abuse in Ontario, and that's where we are now.

The Chair (Mr. Shafiq Qaadri): To the government side: Mr. Johnson.

Mr. Rick Johnson: From your perspective, how does the bill, if it's passed, promote greater accountability, transparency and procurement within the broader public sector context?

Mr. Richard Lundeen: The bill, as structured, provides for the government to have procurement directives that apply not only in hospitals and local health integration networks but also potentially in other parts of the broader public sector. The rules would be established by the government. We're suggesting that the rules should be flexible to equate to the size of the project.

The second part is public reporting. We have no problem with public reporting as a key part of accountability, openness and transparency.

Mr. Rick Johnson: Does your organization have any recommendations with respect to the implementation of the procurement directives?

Mr. Richard Lundeen: The main recommendation is that in establishing the procurement directives there should be not one-size-fits-all, but rather enough flexibility so that the cost to the organization that is hiring the consultants doesn't exceed the value of the consulting project itself.

The Chair (Mr. Shafiq Qaadri): Thanks to you, gentlemen, Mr. Yonemitsu and Mr. Lundeen, of the Canadian Association of Management Consultants.

INFORMATION AND PRIVACY COMMISSIONER

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Anderson, representing the Information and Privacy Commissioner. Welcome. I know you're quite familiar with the protocol. I invite you to please begin.

Mr. Ken Anderson: Thank you very much, Chair. I'm just going to pour some water as we're starting up. I'd like to thank you and the members of the standing committee for allowing us this opportunity to make a presentation.

My comments today will be limited to part VIII of the bill, which amends the Freedom of Information and Protection of Privacy Act to designate hospitals as institutions within the meaning of that act.

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Before I begin making the presentation, let me first give my apologies and regrets from the commissioner, Dr. Ann Cavoukian. She has been unable to be here today because she had a previously scheduled medical procedure, so that's why I'm here in her place. Nevertheless, she would like me to congratulate the government for moving forward on such an important piece of legislation.

As you are aware, our office, the Office of the Information and Privacy Commissioner of Ontario, is already responsible for overseeing both the public sector access and privacy legislation and the health sector privacy legislation in the province of Ontario. It is further to this mandate that we're here today.

More specifically, we're here to express the support of the commissioner and our office for the amendments to the Freedom of Information and Protection of Privacy Act proposed in Bill 122, which promises to improve the transparency and accountability of the hospital sector. It is Commissioner Cavoukian's view that designating hospitals as institutions under the provincial public sector access and privacy legislation is an effective and logical way to ensure accountability.

Let me tell you a little more about this. Given that hospitals are already subject to the privacy requirements of the Personal Health Information Protection Act—a lot of pieces of legislation I'm throwing out here—in their roles as custodians of personal health information, the main impact of this particular designation to go under the other legislation, the FIPPA legislation, will be in the area of access to information, primarily access to what we usually call general records. These are records that relate to the administration and operation of the institutions. As such, they're separate from the patient records; they're a different aspect.

Access to such information would enable citizens to obtain the information necessary to scrutinize important public policy choices, such as how their tax dollars are being spent, and to participate fully in the democratic process. This legislation is also particularly timely, given the current economic challenges and recent attention to and scrutiny of expenditures in Ontario's health care sector.

I'm going to go on and focus on part VIII of Bill 122, please. I'll now take a few minutes to outline the reasons why the commissioner fully supports the amendments to the Freedom of Information and Protection of Privacy Act proposed in Bill 122.

First, you need to know that Ontario's hospitals are currently required to protect personal health information and to provide individuals with access to their records of personal health information. So that would remain, and that wouldn't change.

Designating hospitals as institutions under the Freedom of Information and Protection of Privacy Act would complete these responsibilities by providing transparency

and access to general records, such as those related to the procurement of goods and services, as well as matters of governance, such as budgets and the cost of facilities, programs or services offered by hospitals.

For a number of years, our office has repeatedly called upon the government to extend public sector access and privacy legislation to all publicly funded institutions. This includes hospitals, universities and children's aid societies. Ontario's universities were made subject to the Freedom of Information and Protection of Privacy Act in 2006. Hospitals are subject to public sector legislation—in other words, legislation like what is being proposed in Bill 122—in all other provinces in Canada.

The commissioner is pleased that the time has finally come for Ontario to join the other provinces in Canada that have made their hospitals subject to public sector access legislation. The citizens of Ontario deserve no less and should be entitled to the same rights of access as citizens in any other province.

I would like to emphasize that designating hospitals as institutions under the Freedom of Information and Protection of Privacy Act would not interfere with the effective and efficient delivery of health care. I repeat that: It would not interfere with the effective and efficient delivery of health care. Here's why: The collection, use and disclosure of public health information would continue to be governed by the Personal Health Information Protection Act.

We will work closely with the hospital sector to ensure that the inclusion under FIPPA does not in any way imperil the privacy and security of health information of patients. But additionally, there would be no interference with other issues. For example, existing protections limiting the disclosure of quality-of-care information, as defined under the Quality of Care Information Protection Act, would have no interference. Research, including clinical trials conducted at hospitals, is already regulated, and there would be no other interference. Labour relations or employment-related matters, similarly, would have no interference by adopting this legislation, and other information that falls within the exemptions specified in the Freedom of Information and Protection of Privacy Act would also then not be interfered with.

Our office is looking forward to working with the relevant ministries, the Ontario Hospital Association and our hospitals to ensure a smooth transition. We have expressed our commitment to this task to both the Minister of Health and Long-Term Care and the president and chief executive officer of the Ontario Hospital Association. In fact, our office has commenced this process. The commissioner has already met with the chief executive officers of three major hospitals in the greater Toronto area. She has also scheduled a meeting for next week with the senior leadership of the Ontario Hospital Association to start developing an implementation, education and awareness plan.

In conclusion, I would like to state that we are looking forward to speedy passage of Bill 122 in order that the citizens of Ontario will be provided the same rights of access enjoyed by citizens of every other province in Canada.

Thank you all for your time and consideration of the commissioner's views in support of part VIII of Bill 122, and I'd be pleased to answer any questions you may have.

The Chair (Mr. Shafiq Qaadri): We've got three minutes or so per side, beginning with Madame Gélinas.

M^me^ France Gélinas: Thank you so much for your presentation.

I get from what you are saying that you're comfortable with the language that is used in the bill that will bring the right balance of access to what you call goods and services and governance and freedom of general records, and at the same time protect the workers and protect the privacy of people's medical records.

Mr. Ken Anderson: We believe so, yes.

M^me^ France Gélinas: Thank you. There seems to be a grey area when we talk about quality improvement types of meetings where people can bring forward issues that need improvement. People could feel inclined not to share those because there could be a flip side that says, "If it needs improvement that means it's not good enough as it is." How is this being handled elsewhere?

Mr. Ken Anderson: Do you mean outside Ontario or elsewhere in legislation?

M^me^ France Gélinas: Well, whatever you know.

Mr. Ken Anderson: There's special legislation for quality-of-care information. Even though we have our Personal Health Information Protection Act, we have to ensure—and it was drafted in such a way—that the two pieces of legislation don't bump into each other. Now, PHIPA has been working quite well since 2004. It's already had a review. We, the hospitals, the Minister of Health and so many others had a chance to put our views in, and it appears that these two pieces are standing well together.

M^me^ France Gélinas: So let's say they review physician infection rates. One physician really stands out; his infection rate is way higher than everybody else's. Making that available could curtail anybody from ever putting that information forward. Don't you see this as detrimental to patient care?

Mr. Ken Anderson: In the way that it's currently protected under the quality-of-care legislation, it will continue to be, even if this is passed.

M^me^ France Gélinas: It will continue to be protected because it will be considered quality—

Mr. Ken Anderson: It will still be quality-of-care information.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. I'll move to the government side. Mr. Kular.

Mr. Kuldip Kular: Mr. Anderson, thank you very much for appearing before the committee and thank you for supporting the bill.

I understand the commissioner supports the proposed effective date of the bill of January 1, 2012, for hospitals to be subject to freedom of information. Can you say

something about the time required for hospitals and your office to be trained and ready to implement freedom of information at hospitals?

Mr. Ken Anderson: Yes. The notion of having this time limit: We learned something together when the Personal Health Information Protection Act was passed in 2004. At that time, there was a lead-in that was allowed for persons to get ready. Of course, it covered many different health sectors. The time, as I recall, was about six months, even though there had been several drafts of the legislation, one even proposed as a bill that didn't eventually go forward. So there was a lot of time for people to think about this and prepare.

The hospital sector: Here we are the regulator, but we recognize that in the hospital sector there has been a series of legislation just recently, in the past year, that they have to comply with in order to ensure transparency and good operations and so on. This new legislation is coming along with this piece fairly quickly—rather new. Their eyes were on other balls at the time, and we feel that the one year is fair and wouldn't be detrimental.

In the meantime, we've offered to assist, and already have plans to do so, in terms of education and so on to make it easier for the hospital sector.

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Mr. Kuldip Kular: As you know, there are 155 hospitals in this province. What would you say about the type of training they would require to properly implement the Freedom of Information and Protection of Privacy Act?

Mr. Ken Anderson: Well, they'll require the same kind of training that we've done more recently with the universities in 2006, when we helped people sort out the difference between a general record and other records, which are more private in nature, such as the health records in the hospital. Sometimes people can wonder about that, so we do training on that. We talk to them about the way in which people make freedom-of-information requests. Of course, these days, we're pushing, very much, access by design and the fact that you shouldn't need to make a freedom-of-information request. We're hoping that the hospitals can build on all the work we've done in the past 20 years—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kular.

To the PC side: Ms. MacLeod.

Ms. Lisa MacLeod: Before I get cut off, I just have a quick question—I'm only kidding, Chair.

Why doesn't the Information and Privacy Commissioner support extending freedom of information and access to it across all of government?

Mr. Ken Anderson: In what way?

Ms. Lisa MacLeod: Similar to opening it up to hospitals.

Mr. Ken Anderson: Sorry, I didn't hear that.

Ms. Lisa MacLeod: Similar to opening up freedom of information to hospitals.

Mr. Ken Anderson: So you mean, go ahead with children's aid societies and everything that's publicly funded?

Ms. Lisa MacLeod: Yes.

Mr. Ken Anderson: Well, certainly, in our annual reports, we have looked at things like that. We've made those kinds of recommendations before about looking widely. In fact, the legislation is already quite broad. It covers not only all ministries but it covers police forces, municipalities, public utilities—a whole range of things.

Ms. Lisa MacLeod: Why not everything?

Mr. Ken Anderson: Why not everything?

Ms. Lisa MacLeod: Okay. I hear some giggles from the peanut gallery, but the reality is, why not everything? The question to the government—

Mr. Ken Anderson: No, it's not a philosophical problem for us.

Ms. Lisa MacLeod: Okay. That's great. I guess when you talk about speedy passage, the question we have in the official opposition is, why not everything? If this bill is an omnibus bill, which is supposed to deal with the broader public service and the broader public sector, why not everything? I want to thank you for that, because I was under the impression that you were coming here just to say that this was great and hospitals were enough—

Mr. Ken Anderson: I'm coming to comment on the specific legislation that's in front of the committee, but you asked me a philosophical question about the ambit of access to information in Ontario, and we're very keen on being proactive.

Ms. Lisa MacLeod: So are we in the official opposition. I want to thank you very much for taking the time.

The Chair (Mr. Shafiq Qaadri): Let the record show, Ms. MacLeod, that you do have time remaining.

I think, actually, we're concluded. Thank you, Mr. Anderson, for your deputation on behalf of the Information and Privacy Commissioner.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, Ms. Doris Grinspun of the RNAO, who is no stranger to these committees, and colleague. I would invite you to begin, just reminding you: 10 minutes in which to make your presentation, five minutes remaining for questions. Please begin.

Ms. Doris Grinspun: Good afternoon, all of you. I'm the executive director of the RNAO, which is the professional organization for registered nurses who practise in all roles and sectors across Ontario. Our mandate is to advocate for healthy public policy and for the role of registered nurses in shaping and delivering health services.

I am pleased to speak with you today about Bill 122, the Broader Public Sector Accountability Act. With me today is my colleague, policy adviser Valerie Rzepka, from RNAO.

We welcome legislation that seeks to improve financial accountability and transparency of hospitals, local health integration networks, or LHINs, and other publicly funded organizations. Bill 122 complements the recently

enacted Bill 46, the Excellent Care for All Act, which promotes evidence-based best practices and makes health care organizations and executives accountable for providing high-quality, patient-centered care.

With me today is also associate director Heather McConnell, who leads the RNAO world-renowned program on evidence-based best practices, and we look forward to actively participating in and contributing to decisions regarding evidence-based best practices in Ontario, which are used internationally.

RNAO applauds the government for broadening the Freedom of Information and Protection of Privacy Act in Bill 122 to include hospitals. This crucial step towards accountability is one that the RNAO called for in Creating Vibrant Communities, our platform for the 2011 provincial election that was released last January, and in our submission last spring on Bill 46.

Today, we will propose amendments that will strengthen Bill 122 while being consistent with Minister Matthews's stated objective to raise the standard of accountability and transparency for hospitals, LHINs and other broader public sector organizations. These amendments are detailed in RNAO's written submission, and I will use the remaining time just to speak about some of them.

First of all, long-term-care homes are exempted from the bill's definition of a publicly funded organization. With the government's aging-at-home strategy and efforts to find more appropriate care in the community, especially for hospital patients classified as ALC, there is little justification for distinguishing between acute care and long-term care for the purposes of Bill 122. Thus, RNAO strongly urges the standing committee to remove long-term-care homes from the bill's list of exempted publicly funded organizations in order to ensure accountability for cost-effective, high-quality care and to protect the rights of long-term-care-home residents.

Second, as public sector organizations, LHINs must—and I say must—be accountable for the funds they spend by providing accurate and accountable reports to the ministry. However, the current wording in Bill 122 is ambiguous at best, and only indicates that the LHINs will report—full stop. Bill 122, in our view, falls short in that it lacks details about what the LHINs' reports should contain, to whom they should be reporting and precisely how the reports will be made transparent and accessible to the broader public.

RNAO recommends, in the strongest possible terms, that the reports which LHINs prepare be sent to the Minister of Health and Long-Term Care, tabled in the Legislature and posted on the Ministry of Health and Long-Term Care website.

Third, like many Ontarians, members of RNAO were disturbed to learn in the Auditor General's Special Report on Consultant Use in Selected Health Care Organizations of hospitals having deficiencies with respect to their planning, acquisition, approval, payment and/or contract management of consultants. With increasing pressure being put on hospitals to balance their budgets and decision-makers considering cuts to staffing, programs and services, and bed closures, it is absolutely unacceptable for scarce resources to be used to engage expensive consultants to lobby the government funder.

The RNAO has consistently raised concerns about some consulting firms who are earning large fees while recommending a sharp U-turn to the past by promoting RN replacement and the implementation of failed models of functional nursing, sometimes referred to as team nursing. This consultant-pushed and cost-driven model is all about fragmenting and down-skilling patient care, cutting expenditures in the short run, and, as the literature clearly points out, represents a giant backward step for high-quality nursing care and positive patient outcomes—all of which we know save dollars and don't cost dollars.

At a time when hospitals are strapped for cash, senior executives must use best evidence to make their decisions. This is especially significant with the recent passing of the Excellent Care for All Act, which promotes evidence-based best practices. Evidence on nursing models of care delivery conclusively shows that fragmentation of care leads to serious errors, deficient clinical and health outcomes, and poor health system experiences for patients and staff. Evidence also shows that using registered nurses results in improved clinical and financial outcomes in the short, medium and long terms.

Following the advice of private consultants rather than credible, peer-reviewed scientific evidence, RNs continue to be sacrificed to balance hospital budgets at the peril of patient outcomes and system effectiveness—in fact, I would say at the peril of patient safety, one of the government's own agendas.

RNAO again urges the standing committee in the strongest possible terms to ensure transparency and accountability for cost-effective, high-quality health care by mandating the public distribution and posting of reports submitted by hospitals to LHINs, and by LHINs to the ministry.

In order to improve accountability and ensure transparency in the health system, the public must have full access to information on the expenditures of taxpayer dollars. While this includes making hospitals subject to public scrutiny under the Freedom of Information and Protection of Privacy Act and ensuring public oversight of hospital consultant contracts, it also means granting the Ontario Ombudsman authority to investigate public complaints against hospitals and other health organizations.

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Currently, Ontario is the only province in which the Ombudsman does not have jurisdiction over hospitals and long-term-care homes despite receiving many serious complaints from those facilities. A high-quality health care system must be accessible, equitable, integrated, patient-centered and focused on population health, as well as transparent.

The Ontario Ombudsman's authority has not been modernized in over 30 years, and the province has fallen

behind in the oversight of organizations which provide critical public services.

What is commonly referred to as the MUSH sector includes municipalities, universities, school boards and hospitals, as well as long-term-care homes, police and children's aid societies. The Ombudsman of Ontario's authority with respect to this sector is the most limited in Canada, and I can't emphasize enough that RNAO urges the standing committee to extend the Ombudsman Act to include hospitals and long-term-care homes.

The amendments that RNAO is proposing to Bill 122 support the government's stated objectives to raise the standard of accountability and transparency for hospitals, LHINs and other broader public sector organizations. On behalf of over 30,000 registered nurses who voluntarily joined RNAO, I would like to thank the standing committee for the opportunity to have input into this important legislation, which affects nursing and, more importantly, the health of the people we serve.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Grinspun. To the government side: a minute and a half. Mr. Kular.

Mr. Kuldip Kular: Thank you for appearing on behalf of the registered nurses of Ontario. How do you see the legislative requirements for the public reporting of expense claims being used as a tool to strengthen transparency in our hospitals?

Ms. Doris Grinspun: Well, we believe that every single cost that is coming from taxpayers' dollars should be up to scrutiny. This is just one of them.

On the issue of the spending of people who work in the facilities, as well as consultants, we actually have raised the issues for a couple of years, including freedom of information on the indiscriminate use of consultants by hospital entities. That is why we are so satisfied that the freedom of information now is proposed to be also open for hospitals.

Mr. Kuldip Kular: Are you aware that the official opposition has introduced a bill this year related to accountability that did not—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kular. To the PC side: Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation. I have one question that really is a follow-up to page 4, where you make the recommendation about the LHIN reports being tabled in the Legislature and posted on the Ministry of Health and Long-Term Care website. One of the previous presenters talked about the fact that this bill has no consequences if the reporting wasn't fulfilled. Do you have a recommendation for the committee on what you think should be included in terms of consequences?

Ms. Doris Grinspun: Yes. First of all, the fact that it's unclear and very ambiguous in the bill what will happen with the reports only contributes—right?—to having no consequences. I can assure you that the moment that these reports will go not only to the Minister of Health and Long-Term Care but then to the Legislature and will be posted publicly, people will start to shape up, to be quite frank.

It was very disturbing to see the findings that we saw. Some of them were not surprising to us because, on the issue of consultants, as I mentioned to the government side, we have been on that case for a long time, very unsuccessfully, because it's not open to the hospitals. We have no access, so we don't get the information.

Ms. Sylvia Jones: Well, certainly in the LHINs in our various ridings, we see how much they're using consultants, so in some ways, it wasn't surprising—

Ms. Doris Grinspun: Yes, and some of that is being pushed into organizations; some of that is initiated by organizations. Quite frankly, we have asked the Minister of Health and Long-Term Care that no more consultants be used for nursing because nurse leaders are—

The Chair (Mr. Shafiq Qaadri): Thank you. Madame Gélinas.

M^me^ France Gélinas: I'm pleased to see you, Dr. Grinspun. I can assure you that the NDP will support including long-term-care homes, Ombudsman oversight of hospitals and clarification on reporting. The question I'm asking, you haven't covered, and you can answer now or later. People who are uncomfortable with making conversation under quality improvement will now be FOIable. So if at a department meeting you talk about infection rates and compare different providers, this information would be FOIable; therefore, it could hold back quality improvement. Have any nurses expressed those reservations?

Ms. Doris Grinspun: We have not heard reservations. It is very true that that can be compromising in small communities, because you can actually identify if there are one or two physicians or a group of nurses in a small place. However, at the end of the day, we all work for the public and the public has a right to know the downfalls on quality in any specific facility. So the approach should not be punitive; the approach should be truly quality improvement, but it should be available to the public.

The Chair (Mr. Shafiq Qaadri): Thank you.

PPI CONSULTING LTD.

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter, Mr. Grant of PPI Consulting, to please come forward. Your material has already been distributed to the members of the committee. I invite you to be seated and please begin now.

Mr. Howard Grant: Good afternoon. I'm here today focusing just on the procurement elements of Bill 122, and not speaking to any of the other elements.

I want to first give some context on really why, as a consequence of what's happening in today's environment, Bill 122 is in fact required. Historically, when governments or organizations have been involved in procurements, one of the things that has emerged is that by not making those procurements visible and public they have either spent too much or not gone out to the marketplace to get the best solution. Unfortunately, the sector that is currently being looked at has been reasonably invisible with respect to certain major initiatives.

What is also happening is that the media and vendors have been trying to understand what's been going on in the sector itself, particularly vendors who have been shut out of opportunities in certain of these organizations for no good reason. When you bring in broader public sector supply chain guidelines, it forces those organizations to be a lot more transparent and visible with respect to what they're doing.

The shame, though, is that a number of these organizations actually have very good practices, but they're being tarred because we're looking at things like spending too much on expenses, or executive salaries are too high. So this bundling of issues, in certain cases, is giving a bad reputation to certain good procurement organizations within some of these entities.

The other thing that has emerging is that as the economy gets softer, the vendors themselves look to the public sector as a very good source of business opportunities. Generally, they'll look at it on the basis that the profit margin may be lower than in the private sector; however, if you sell to government you'll generally get paid. As a consequence, because of the number of opportunities vendors are facing, they're going to look to the public sector and they're going to get frustrated if they don't have an opportunity to participate.

There's no sanction against a vendor calling a newspaper and saying there's some inappropriate behaviour, and that is being done increasingly, irrespective of whether they have a case or not. When we're working with clients, we're very concerned about reputational risk. So from our point again, Bill 122 is going to make stuff visible, which is going to in fact mitigate vendors complaining that they're not getting a fair shot at the processes.

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The government introduced version 1 of the BPS supply chain guidelines, and we thought it was a very good first step, but the application of the guidelines has been challenging for some organizations, primarily because it wasn't followed up with procurement training for the people. Because one of the things that's emerging now is that there is still a belief that procurement is purchasing, which it isn't. The old people involved in the purchasing profession think that, historically, it's about getting the lowest cost. Procurement isn't about that; it's actually looking at the business outcome and putting a combination of quality and price.

It's interesting when people push back against the guidelines to say, "You're going to force us to buy cheap and sacrifice quality." Clearly, not just as a practitioner, but as a user of health care in this province, I actually want appropriate equipment. There is every mechanism in the procurement field to support the combination of quality and a good price, not always the lowest price.

The other thing that's emerged, that's coming on now is that there's a view that organizations can afford themselves a lot of legal protection. In fact, a recent decision, Tercon, which I think probably the speaker who's going to follow me may mention, means that organizations cannot skirt their rights and privileges and just say, "Okay, because I'm going to treat you unfairly, because I'm going to do whatever I want, because I'm going to pick anybody I want, even though you may not be the lowest price or the best quality"—those days are a bit limited for organizations.

What's needed in the good news? We need clear and unambiguous rules. We have those now already in the BPS guidelines. We need to help the organizations get better at what they're doing. What's emerged, though, is that our view of the world has changed. Maybe I'll just give you a very brief example.

Many years ago, boards of directors of hospitals would be made up of a local architect, a lawyer, an accountant—various sorts of the professionals. They were doing their public duty and were giving of their time being involved in those organizations. They could have been on the board for five or 10 years and an issue comes up, maybe of a financial nature, and the board would turn round and say, "Joe, you're our finance guy. Could you help us out?" That was reasonable. It wasn't unfair. That was the way business used to be done. The people who gave of their time on those public boards were not doing it because they saw significant revenue, but the view was that there was a confidence, a trust from the fellow board members that that was a way that they would be asked to contribute.

Clearly, we now know in 2011 that that type of behaviour is something that we stay away from, but five years ago it wasn't. One of the challenges we're faced with is, we're using today's standards to look at what was actually acceptable behaviour many years ago. That's unfair. That's why I think we believe that the guidelines proposed by the government are evolutionary, not revolutionary. It's just that our view of what's appropriate is evolving, and unfortunately, occasionally a couple of people overstep the mark and then the focus comes on it. There's nothing new in what we're looking at. Open, fair and transparent procurement's been around for a long, long time. The challenge is people's belief that it applies to them or they can ignore it for whatever reason, either for certain goods or services or whatever it is.

In our view, the bill will contribute to achieving the business and process outcomes. It sets the framework for clear rules, and it is appropriate and prudent to address the challenges. As I said, the world has changed, our view of what is acceptable has changed, and the guidelines that are already in place for other organizations, the broader public sector, can be appropriately applied and should be applied to this sector. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Grant. About three minutes or so per side, beginning with the PC caucus, Ms. MacLeod.

Ms. Lisa MacLeod: Last year, the Minister of Government Services said, "Our government has moved decisively to introduce greater accountability and transparency in the area of procurement. Our procurement policies ensure value for money by implementing open, fair and transparent competitive processes." That was

said in the spring of 2010. Then we saw the Auditor General's report. Obviously the minister's comments were obsolete, given the fact that we're now dealing with this piece of legislation.

Earlier today I asked a question of renowned whistle-blower Allan Cutler: why, in Ontario, we're four years behind the federal government, which has, as a result of the Gomery commission, put forward probably one of the toughest ethics packages in the world in dealing with public money. I guess in terms of your presentation on procurement and the current environment, I'd like to have your opinion on that.

Mr. Howard Grant: I'll give you that, in fact, the federal government may appear to have very strong legislation but it has not worked practically. I will share with you an anecdote talking about that. In fact, I think that the minister at that time, in terms of where the directors were going, was very effective. The Ontario government is probably one of the best buyers around, and all it's doing is extending those best practices through to the broader public sector, which is appropriate.

I had the opportunity to speak to the Ontario Hospital Association, about the time you're talking about, on procurement and fairness, and I got the impression at that meeting, unfortunately, that there was still a series of denials in the hospital sector, that even though here was an event sponsored by the Ontario Hospital Association, these guidelines on procurement and the use and application of fairness maybe didn't apply to them. So I think that all this bill is going to do is just reinforce that it does apply to them.

It's disappointing that the boards of the hospitals—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. To you, Madame Gélinas.

Ms. Lisa MacLeod: He's the official cutter-offer. He's very good at it.

Mr. Howard Grant: I'm fine with that.

M^me^ France Gélinas: Go ahead and finish your thought.

Mr. Howard Grant: It's disappointing that the hospitals or the boards themselves, from a governance and accountability point of view, didn't understand what their responsibilities were. I come back to it: The role of the board, from a governance point of view, has changed; the accountability has changed. With all the stuff happening in the newspapers, why hospital boards would think that they'd be immune from some of this stuff, I don't understand.

To me, it's disappointing that this bill has to be in place, from a procurement point of view. But if this is what it's going to take to make people be responsible—

M^me^ France Gélinas: So you're more or less telling us that the procurement rules that were there were good, they were just not being followed. So what we need to do is, "Wake up, everybody; that applies to you"?

Mr. Howard Grant: Correct.

M^me^ France Gélinas: Wow. Okay. I thought that's what you had said, but—

Mr. Howard Grant: What comes out of it, though, as I mentioned, we have to make some investment in training people.

One of the things that occurs, just in further answer to your question—one of the challenges that procurement people are faced with is that the way they sit in an organization is generally behind finance. In a lot of cases, they are not given the opportunity. They will see something that may be inappropriate—there's been a competition and there's a view to give it to number two, but because they don't sit at the executive table, it makes it difficult. I'm not saying it happens all the time but it's one of the challenges: that we still don't view procurement as a strategic activity, and yet it's a significant part of any organization.

If you look at the hospital sector—

M^me^ France Gélinas: They're all set up the same way, where the procurement is under finance; even if they see something, they couldn't even bring it forward?

Mr. Howard Grant: Well, it's a challenge because they're so low down in the organizational structure.

M^me^ France Gélinas: So it doesn't matter what rules we put into place, if the people who have the knowledge have no way to bring that knowledge forward, we're back to square one, are we not?

Mr. Howard Grant: It's a challenge. That's a governance issue.

All I'll say to you is, in most organizations, even in the hospital sector, I would suggest to you, 20% to 30% of the total spend of a hospital—maybe more—is on goods and services. If you can extract a 10% saving, which is not difficult, which competitive procurement will show—

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Mr. Kular or Mr. Johnson.

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Mr. Rick Johnson: You mentioned earlier about shortcomings of the federal legislation. Could you expand on that? I'd just like to hear your viewpoint on what those shortcomings are.

Mr. Howard Grant: You've got to do two things. When you introduce something, you've got to give people confidence that they truly can be a whistle-blower, and that is not there in the public sector. I deal with public sector people all the time. I don't want to paint the fact that every procurement the federal sector do is incorrect, because that's not the case. But what I will tell you is, there are certain cases where it is inappropriate and it's not strong enough.

Mr. Rick Johnson: What outcomes do you think hospitals will receive by having clear procurement rules and oversight in place?

Mr. Howard Grant: It's got to be done as part of a changed management strategy. Within the hospitals, you've got to really educate the finance people, you've got to educate the procurement people, that this is a way to do it. In essence, I think that once they understand how to do it correctly—and a lot of them already do, but it's actually convincing the business owners, which we don't

like talking about in hospitals, who could be doctors or certain other people saying, "No, I only want product from company A." So it makes it difficult.

One of the things that this will potentially do is make visible where hospitals clearly are trying to wire a bid. It'll make it more visible in the marketplace.

So I think there could be an interesting ride as this is implemented, but in the long term, for the citizens, we will get significantly more value for money.

The Chair (Mr. Shafiq Qaadri): Thank you for your deputation.

THE PROCUREMENT OFFICE

The Chair (Mr. Shafiq Qaadri): I'd now call upon our next presenter to please come forward: Mr. Emanuelli of the Procurement Office. Your materials have already been distributed. I'd invite you to please be seated. I guess you've got a PowerPoint as well. Please go ahead.

Mr. Paul Emanuelli: I would like to thank the committee for the opportunity to speak today. I've had the benefit of reviewing the Office of the Auditor General of Ontario's October 2010 special report on consultant use in selected health organizations, and its findings and recommendations relating to health sector procurement in Ontario. I have also had the benefit of reviewing the text of Bill 122. I'm here to speak in support of the honourable minister's attempt to enhance the probity and transparency of government procurement in Ontario and to offer some suggestions regarding the implementation of good governance measures for public procurement. My comments will focus on two main points.

First of all, we need to be more proactive in dealing with compliance with our public procurement rules. There are far too many examples where tendering infractions and the systemic mismanagement of public funds are only discovered through costly litigation or after-the-fact audits. We need a clearer operating system that provides proactive guidance to public institutions through the creation of uniform rules.

Secondly, there are many international examples we can draw from to help inform our good governance standards to help ensure that we keep pace with other jurisdictions.

We are falling behind in Canada when it comes to establishing clear and uniform public procurement rules. I've circulated copies of The Laws of Precision Drafting: A Handbook for Tenders and RFPs. In this handbook, I attempt to give guidance to procurement professionals on how to properly draft their procurement documents, taking into account case law, policy and statutory developments across a broad range of Commonwealth countries. This project evolved from my main text, Government Procurement, which consolidates over a quarter century of Canadian case law. After having completed these two projects, I can draw two interrelated conclusions.

First of all, when it comes to public procurement, Canada appears to be the most litigious jurisdiction in the English-speaking world. Our courts have occupied the field faster and with greater penetration than any other Commonwealth country. That evolving jurisprudence has created a risky and often unpredictable operating system for public procurement. I offer the February 24, 2010, Journal of Commerce article entitled "Supreme Court's Tercon Ruling May Force New Approach to Contracts" as just one recent example of the legal uncertainty inherent in the current tendering system.

Secondly, relative to other Commonwealth countries, we do not appear to be responding to our past mistakes by implementing effective and consistent remediation measures. We are falling behind the UK, Australia and Africa. For the most part, our procurement operation lacks a statutory spine. Public institutions are left to their own devices, forced to interpret complex and often contradictory case law findings and navigate a murky patchwork of treaties, directives and guidelines to develop and implement their own operating rules.

The absence of a clear and uniform operating system is one of the primary reasons why we have so much litigation and why we have so many after-the-fact audit findings. We need to be better at learning from past mistakes and taking a proactive approach to the development and implementation of our own procurement rules.

Rather than reinventing the wheel, if we want to address the issues raised in the Auditor General's special report, I suggest that we consider the wealth of examples available to us from other jurisdictions, those jurisdictions that have faced similar challenges. Drawing from the precision drafting handbook, I offer you four examples of how other jurisdictions are dealing with the issues raised in the Auditor General's report.

(1) The Auditor General's special report speaks to instances in which: (a) there was a lack of advanced planning and approvals with respect to certain contracts; (b) there was a lack of transparency with respect to both contractual objectives and evaluation criteria; (c) higher-priced consultants were given preferred treatment in the procurement process; and (d) contracts exceeded the original cost estimates or were extended without competition. To address similar issues, Ghana's Public Procurement Act compels advance planning by making it a statutory requirement to disclose contract requirements and contract evaluation criteria, including weightings, in public tenders. To draw on another example, the European Parliament's procurement directives, along with the UK regulations which are based on those directives, create clear statutory rules requiring the disclosure of contract award criteria, including the disclosure of any non-price factors that will inform contract awards. These examples can help inform the creation of clear, standardized rules for public procurement in Ontario to help guard against unclear award criteria, unclear contract requirements and the cost overruns that often result from that lack of initial clarity.

(2) The Auditor General's special report speaks to some procurement processes where suppliers were given an insufficient amount of time to respond to tender calls.

Australia's Commonwealth Procurement Guidelines and the European Parliament's procurement directive both allow for tighter posting time frames where institutions have provided pre-notice of intended procurements as part of their annual procurement plan. These rules create a clear protocol to take pressure off the day-to-day tendering cycle by entrenching proactive planning into the procurement process.

(3) Bill 122 speaks to lobbying by public institutions. However, as the Gomery and Bellamy reports have detailed, when it comes to government procurement we have significant issues arising from the lobbying of public institutions. The Auditor General's special report notes a number of instances where local health integration networks failed to obtain conflict of interest declarations from their consultants. This deficiency requires clear remediation to help guard against procurement improprieties.

Kenya's Public Procurement and Disposal Act establishes clear rules against inappropriate conduct within the supplier community, including a ban from government contracts for up to five years for those suppliers who have breached the statute. We should consider implementing similar measures so that our conflict of interest protocols are supported with meaningful sanctions against suppliers who contravene our ethics rules.

(4) The Auditor General's special report speaks to a number of consulting contracts that were awarded without competition, particularly in the hospital sector. The United Nations model law on procurement provides a broad range of recommendations regarding the use of various procurement formats, including prequalification procedures. These can help alleviate the urgency that leads to many non-competed contracts. Similarly, Malawi's Public Procurement Act also provides clear rules regarding the assessment of contractor qualifications and serves as an example of the types of factors that can be standardized to help provide guidance to public institutions in pre-qualifying suppliers and avoiding uncompeted contracts.

In summary, I would like to conclude by reiterating our need to proactively establish clear and uniform good governance rules. We have many international best practices to draw from in the creation of a clear operating system for our government procurement operations.

I want to thank the committee for this opportunity to provide my submissions.

The Chair (Mr. Shafiq Qaadri): Thank you. We have about two minutes or so per side, beginning with Madame Gélinas.

M^me^ France Gélinas: Thank you very much for your information. It was very well presented, lots of info in a very short time period.

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Am I right in thinking that what you see in the bill is that we're going in the right direction, but that if we don't have the right guidelines that go with it, all could be for nothing? Because we could still be in a place where contracts are extended without appropriate open bidding etc.

Mr. Paul Emanuelli: As they often say in procurement and elsewhere, the devil is in the details. What I suggest is that this is a good step forward in the right direction in setting up a framework under which we can then implement, by way of directive, guideline or regulation, the greater details necessary to create clarity in an operating system, to give the guidance that our broader public sector requires.

M^me^ France Gélinas: So, if those have existed and are actually published, how come we've never implemented them?

Mr. Paul Emanuelli: I can't speculate on that, but we're now moving in the right direction, so I would encourage us to continue on that path.

M^me^ France Gélinas: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Kular.

Mr. Kuldip Kular: Thank you so much for coming before the committee, and thank you for supporting this bill.

Can you talk more about the importance of oversight of procurement by boards and how the reporting requirements in this bill will improve the hospital procurement?

Mr. Paul Emanuelli: One of the necessary winning conditions in ensuring open, transparent and defensible procurement is external oversight. It ought not to be a substitute for internal regulation. Institutions ought to govern themselves, but there also should be the light shone on procurement, the transparency shone on procurement, by way of external oversight. So I think it's commendable that that is a part of the statute, and I do encourage that. It sends a clear message to those procurement professionals I work with on a daily basis at the front lines of the tendering cycle that there is leadership and there is encouragement that, at the centre, we take this seriously. That's a message that I think is a good one to send—to support them, as Mr. Grant spoke previously, in their ongoing legitimate efforts to try to follow the rules. So that external oversight is a necessary aspect of that.

Mr. Kuldip Kular: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kular. To the PC caucus: Ms. MacLeod.

Ms. Lisa MacLeod: That was an excellent presentation. I was very happy to see the level of dedication you put into your research. I think that some of those ideas, if not all of them, should be explored by this committee as amendments. May I ask, is that why you put them forward, as possible amendments to this legislation?

Mr. Paul Emanuelli: I would suggest that I wouldn't necessarily recommend them as amendments to the legislation. They can inform. It's up to this committee—I defer as to the implementation method. But the ideas or the substance, in one way or another, ought to be considered, by way of regulation, directive or guideline, to help inform and give procurement professionals a clear operating system.

Ms. Lisa MacLeod: So we could do better as a Legislature, and we could adopt tougher laws that would protect taxpayer dollars?

Mr. Paul Emanuelli: The area of public procurement is one where we can often and always strive to do better, yes.

Ms. Lisa MacLeod: Excellent. I can assure you that the official opposition will be doing further research on your ideas. I guess I would implore, at this point in time, the government to do the same and to consider this through a clause-by-clause.

Thanks very much. It was a very good presentation.

Mr. Paul Emanuelli: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod, and thanks to you, Mr. Emanuelli, for your deputation.

ONTARIO HEALTH COALITION

The Chair (Mr. Shafiq Qaadri): I invite our next presenter to please come forward, Ms. Mehra of the Ontario Health Coalition. Welcome. I invite you to please begin now.

Ms. Natalie Mehra: Thank you very much. The Ontario Health Coalition is an organization dedicated to protecting and expanding the public health system under the principles of the Canada Health Act. We represent more than 400 member organizations from every region of Ontario.

We're very interested and have been working for some time on the issue of improving transparency and public accountability in the health care system. So we support the improvements to the public accountability and transparency provisions of Ontario legislation in this bill, particularly those related to expanding the provisions of the Freedom of Information and Protection of Privacy Act and improved capability of the government to set rules and require reporting of expenses. We note that these are first steps. They're important first steps, but they really are only first steps.

The Ontario Health Coalition spent much of the spring touring Ontario, doing public hearings on the future of small and rural hospitals. In those hearings, we heard an extraordinary level of public anger about the high-handedness of both the LHINs and local hospitals but also of the provincial government, in terms of decision-making regarding the future of hospitals, public access to information and documents regarding planning and decision-making, cuts to services, and other important policy and planning issues for their local communities. While this bill deals with some of those concerns, it does not deal with all of the concerns of Ontarians regarding improved transparency, democracy and public accountability.

From the Ontario Health Coalition's point of view, we've spent many years trying to get information disclosed in the public health system, and we've had some frustrating experiences. I'm going to share some of these with you, because they highlight how the bill will work to improve some things but not necessarily others.

We and our member groups and the opposition have had to make repeated requests under FIPPA for access to information on care levels in long-term-care homes. Despite winning access to this information years ago in an appeal, which should have been unnecessary in the first place, updates have not been provided on this information, despite the fact that we're asking for the same information that has been disclosed before and has been won on appeal. We've had to deal with repeated delays and frivolous requests for clarification. Currently, the information in the public domain is more than two years old, and information on fewer and fewer of Ontario's long-term-care homes is disclosed each year. I should note that in the United States, this basic information on care levels in long-term-care homes is posted publicly on websites and in the homes themselves.

We and our member groups and affiliates have tried to get information out of local health integration networks. This information includes such items as information on whether or not the Toronto Central LHIN approved the closure of rehabilitation beds at Providence Healthcare and on what basis that decision was made. We've been waiting for more than two months for this information and we are restricted, according to the LHINs legislation, from appealing such decisions unless we do it within 60 days. It's impossible to appeal a decision if you can't obtain the information on whether a decision has even been made by that LHIN or any of the documentation supporting it within the time limits required in the legislation.

In Shelburne, Ontario, for example, city councillors, mayors and the community were concerned about the LHIN decision to close down their local hospital—that's their entire local hospital—in the last 12 months. They found out that the LHIN considered three options in its decision-making, but the LHIN would not disclose to anybody in the community what those three options were.

The LHINs are supposed to be governed by an overarching plan for the health system from the Ministry of Health. Freedom-of-information work done by the then Conservative health critic, Elizabeth Witmer, revealed that the government does have a 10-year health plan, but this document has been kept secret under FIPPA, using the excuse that it is a cabinet document.

We are currently trying to get basic financial information on more than $3 billion worth of P3 hospital projects across Ontario. We first asked for the information in June. As of today, we still don't know whether or not Infrastructure Ontario will provide any of the information that we've asked for.

So while we support extending the Freedom of Information and Protection of Privacy Act to cover hospitals, we think that there are shortfalls in the act that need to be addressed perhaps in subsequent amendments to legislation. In addition, we and our member groups have also tried to get information on CCAC deficits and cuts, long-

term-care lobbying activity, care levels and financial information, and information regarding public health, often with little success. We believe that there really is no justification for excluding long-term-care homes, the for-profits, the CCACs and their agencies and public health from public access to information provisions under this legislation. All of these entities receive public funding and/or user fees from the public. In the case of long-term-care homes, these homes house more than 70,000 Ontarians, funded by their user fees and by public funding, and so their explicit exclusion is surprising and unjustifiable.

The access-to-information provisions under FIPPA should include all of these entities. Access-to-information provisions should also include retirement homes if they are receiving public funding to take patients or residents.

Since under FIPPA ministries and agencies may require those seeking information to pay fees for that information's retrieval, we see no reason to limit the backdating of information that's being sought. If cost is the issue, FIPPA contains mechanisms to deal with that.

But the idea that standards have changed does not provide a sufficient excuse, and while it protects the agencies from a look even at their historical behaviour, it's hard to see how that could be in the public interest.

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We support sections 5 and 6, requiring hospitals and LHINs to make reports on the use of consultants, but we think these sections should be amended to ensure that these reports can be made available to the public. It's not clear to us, even with the expansion of FIPPA, that those reports would ever make it into the public domain.

In terms of the procurement section, this is the other section where we have some problems. It's not clear what the criteria are, what the limits on the procurement directives might be from Management Board of Cabinet, and how those directives may affect other directives that exist. So we believe that there are not clear enough limitations, that there's not a clear enough definition of procurement in that section, and in fact that the intent of that section needs to be clarified and limited so as not to have unintended consequences on other directives of government, including, perhaps, the expansion of competitive bidding across the whole health care system, the expansion of for-profit privatization, and contracting out within the health care system.

Those are our major concerns. Thanks.

The Chair (Mr. Shafiq Qaadri): Thank you. Two minutes a side, beginning with the government.

Mr. Kuldip Kular: Thank you, Chair, and thank you, Ms. Mehra, for appearing before the committee. My question to you is, do you think providing greater oversight of hospital procurement and opening hospitals to the Freedom of Information and Protection of Privacy Act is good public policy?

Ms. Natalie Mehra: Of course. I don't think anyone would disagree. I think the problem is, is it sufficient to do what needs to be done? Hospitals can claim commercial confidentiality to hide significant amounts of financial information. They can claim that planning, for instance, of levels of hospital services holds implications for labour relations and thereby exclude those documents from the public domain. There are lots of ways within FIPPA to avoid public disclosure of information. So is it a good first step? Yes. Is it sufficient? No, it's not.

Moreover, is it justifiable that only hospitals would be covered, and not long-term-care homes, CCACs, their agencies, and the whole privatized portion of the health care system? No, it's not.

The Chair (Mr. Shafiq Qaadri): Thank you. To the PC side.

Ms. Sylvia Jones: Thank you. You have touched on a number of issues that previous presenters have as well, and I appreciate that, but I wanted to get your thoughts on the fact that there don't seem to be consequences written into the legislation. If the reporting is not done, if it is not done sufficiently for disclosure, do you have any recommendations to the committee on what the consequences could or may be?

Ms. Natalie Mehra: Good question. Actually, we haven't come up with those, but I will bring it back, and in our written submission we will bring some recommendations that we have consensus on.

Ms. Sylvia Jones: Thank you. As an aside, the Shelburne community is still very concerned about the closure of their hospital.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Madame Gélinas?

M^me^ France Gélinas: Thank you, Ms. Mehra. I realize that your agency has accumulated quite a depth of knowledge about some of the hardships people face when they try to gain access to information from different players within the health care system. You certainly have been a champion in this and I thank you for the battles you've fought for everybody else.

When you talk about the shortcomings of freedom of access to information, you certainly speak in favour of extending it to long-term care and others; so will the NDP. I'm curious to see if you have given any thought to Ombudsman oversight of hospitals.

Ms. Natalie Mehra: Yes, we have given thought to that, and yes, we support the extension of the Ombudsman's powers to cover hospitals also.

M^me^ France Gélinas: And you see this as distinct from the information you would get under freedom of access to information?

Ms. Natalie Mehra: Absolutely.

M^me^ France Gélinas: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas, and thanks to you, Ms. Mehra, for your deputation on behalf of the Ontario Health Coalition.

ONTARIO HOSPITAL ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I'd invite our next presenters to please come forward: Professor Baker and Ms. Butts of the Ontario Hospital Association, and in various capacities. Welcome. Please be seated, and please begin.

Ms. Jodi Butts: Thank you, Mr. Chair. My name is Jodi Butts. I'm the vice-president, corporate services, and general counsel for Mount Sinai Hospital. Joining me is Dr. Ross Baker from the department of health policy, management and evaluation, at the University of Toronto, and a researcher on patient safety and quality-of-care issues. We are very pleased to address this committee about Bill 122, the Broader Public Sector Accountability Act, on behalf of the Ontario Hospital Association.

The Auditor General's recent special report identified a number of areas where hospitals must improve their practices. Bill 122 will help us to make those improvements, and we strongly support it because we strongly support transparency and accountability.

In fact, you may recall that last October, the Ontario Hospital Association invited freedom-of-information legislation to be extended to hospitals because we knew it was one more way to enhance the public's trust and confidence in their health care system. At that time, we stated that any such legislation must take into account the complexity of the work hospitals do every day. While Bill 122, if passed, would accomplish many positive things, it does not, in our opinion, sufficiently protect quality-of-care information that falls outside the Quality of Care Information Protection Act, or, as it's popularly known, QCIPA. For that reason, we request that Bill 122 be amended to specifically exclude that category of quality-of-care information.

QCIPA is a useful piece of legislation. Its focus, however, is actually quite narrow. QCIPA allows for discussions and review of serious incidents involving the harm or death of a patient, and protects those discussions from ever being used in litigation or other disciplinary proceedings. The legislation is very clear and sets out strict parameters for what information can be protected, extending only to activities of a specifically and specially designated quality-of-care committee.

As you know, conversations about improving quality and patient safety are commonplace in hospitals, occurring in many situations that extend well beyond the meetings of any one select committee. Because Bill 122 only protects the quality-of-care information in QCIPA, any records prepared for or used by a hospital to evaluate and discuss quality, safety and risk management would be available through a freedom-of-information request.

As I have seen first-hand, internal reporting and a culture of openness are the most productive ways for health care organizations to identify areas of improvement, examine contributing factors, apply lessons learned, prevent errors, and enhance overall performance.

Inadequate protection of quality-of-care information outside of QCIPA would almost certainly undermine that culture of openness, honesty and candour about patient safety that hospitals have worked so hard to establish.

Consider this example: Let's say infection rates in a hospital department are trending higher. We would want the professionals in this department to be able to freely and without reservation explore why this is happening by reviewing individual practices, any recent changes to their working environment, or other contributing system-level factors. This may involve an independent review by experts or a review of hospital charts and a discussion of their findings.

These candid and honest reviews are how health care professionals identify areas for general improvement. However, if these same professionals felt that records of their frank and open discussions could be made public through a freedom-of-information request, they may very likely stop participating in the reviews or stop being as candid as we need them to be. This would serve no one and, as I mentioned earlier, would only undermine that patient safety culture that has begun to take root in hospitals.

To be clear, patients would still maintain full access to important data about how their hospitals are performing through the public reporting of patient safety initiatives and other venues, such as myhospitalcare.ca. We are simply interested in extending protections to facilitate the important and often sensitive conversations had in the name of improving safety.

To talk more about the importance of that, I'll now turn it over to Dr. Baker.

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Dr. Ross Baker: Thank you very much, Jodi.

Six years ago, I led a team of researchers that was responsible for carrying out the Canadian Adverse Events Study, the first large-scale study of patient safety in Canadian hospitals. Our research, and that of others in Canada and elsewhere, has shown that solving the system issues and creating effective work environments requires that physicians, nurses and other caregivers feel free to report incidents where patients are harmed or almost harmed: the so-called "near misses." Hospitals can only learn about these incidents when nurses and physicians report them and when we can identify the types of changes that will prevent their reoccurrence. Capturing these issues, conducting detailed reviews and then implementing improvements is how we enhance care. It is the documentation of these important conversations that's so conducive to improving patient care.

It's also important that these records and the documentation of these conversations remain protected. That's because these individuals fear being named as responsible for poor outcomes, even when, as is usually the case, it is a series of mishaps that leads to an incident.

Unlike airline travel or nuclear power, to name two other examples of high-risk industries, health care is largely dependent on human interactions. We cannot automate these interactions between doctors and patients, nor would we wish to. Instead, we must learn of incidents and near misses that occur every day and create safer care by reviewing our work and designing a more effective care environment.

As Ms. Butts has already stated, health care organizations rely upon QCIPA to protect conversations about the most critical incidents, yet we know that there are many other patient safety related conversations and reviews

that need to take place. Hospitals need to create learning environments where staff feel free to share their insights about how the work of doctors, nurses, pharmacists and others could be changed to create safer and higher-quality care for all patients and where hospital leadership feels well advised to make systemic changes that directly improve care for patients.

When hospitals carry on investigations under QCIPA, they cannot share the results of their learning with other hospitals. So, in that sense, it's a good thing that relatively few incidents are examined within QCIPA protection. We want to encourage broad-based conversations and promote a culture of safety across the health care system. Relying on QCIPA alone is likely to have a chilling effect on the efforts of hospitals to improve the safety of their care, as fewer incidents will be reported and the lessons learned from them cannot be easily shared.

Extending freedom-of-information legislation to hospitals promotes accountability and transparencies, but an exclusion is necessary for quality-of-care information so that we don't restrict the ability of staff to identify and learn from events, reducing the capability of hospitals to improve their care to patients on an ongoing basis. As potential patients, we all want a safer system. Freedom-of-information legislation shouldn't be a barrier to that.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. About, let's say, two and a half minutes per side, beginning with the PC caucus. Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much. I appreciate your attendance here today. I also think that you've done incredible work in laying the groundwork for this Legislature expanding freedom of information to hospitals. I think it couldn't have been done without you, so thank you very much. Our party, the official opposition, put forward a bill based on your recommendations last May.

Having said that, I do have a quick question: Do you think this bill goes far enough in the entire broader public service? I know that your sector right now is going to comply with freedom of information. I had the Deputy Information and Privacy Commissioner here earlier today, and he said, "Why not expand it throughout more of the public sector?" I'd like your opinion on that.

Ms. Jodi Butts: I'm not sure if we're really in a position to talk about those other sectors. I know this sector very well and I think that further transparency is actually going to be a tremendous benefit to it. That may transpose to other sectors, but I couldn't give you an informed opinion on that.

Ms. Lisa MacLeod: Sure.

Earlier today we had the Registered Nurses' Association of Ontario in, and they had a couple of comments about the LHINs, which I think you are probably a little bit more comfortable talking about. They had some concerns, given the reporting mechanisms that are in place in the current law. They had questions about whether or not the LHINs—who they report to, when they need to report; that's all very much a grey matter here, a grey area.

I would like your opinion: Right now there is a mandatory review of the LHINs that was supposed to occur; it hasn't yet. This would give a directive or an ability for the minister to do those audits from time to time. What's your position on that?

Ms. Jodi Butts: On the review of the LHINs?

Ms. Lisa MacLeod: On the reviews.

Ms. Jodi Butts: The legislation was introduced and it had some very clear mandates for the LHINs. I think they can be measured against the mandate that was set out in the Legislature.

I think at least the Toronto Central LHIN—that's the only one I've certainly had any exposure to—has provided some really sound guidance and stewardship in a number of areas. But, ultimately, I think they were creatures of statute that were created to help the government get closer to health care. I think, from the hospitals' perspective, they've succeeded in part on that mandate. But from the government's perspective, I'm not sure. I've actually never looked at it from that—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. To Madame Gélinas.

M^me^ France Gélinas: I was really interested in what you had to say about safety of care. I understand that we have to find the balance: You support freedom of access to information, but you also see the chilling effect it could have on safety of care and those discussions.

Do you have a live example where freedom of information, or something similar, was introduced and how it really set back the safety conversation?

Ms. Jodi Butts: I'll definitely let Ross speak to this point as well, but I think part of the peculiarity is the Ontario context. If we look at other provinces where hospitals are subject to freedom-of-information legislation, they also have a very different statute that completely takes all quality assurance information out of the litigation system, as opposed to in Ontario, where we have QCIPA, which has fairly rigid requirements in terms of designating in writing the committees and only sharing information for very defined reasons and only to select recipients.

It's hard to look to other provinces for examples, and because we've never been under freedom-of-information legislation here, there aren't examples here. I do apologize.

M^me^ France Gélinas: That's okay.

Ms. Jodi Butts: Ross, you may have—

Dr. Ross Baker: I'd just add to that. I think we're coming out of a period where there was a lot of fear about reporting and learning. Creation of the structures has really worked, over the last decade, really, to try and make a much more open environment for people to work on this. But it's still a very fragile culture, I think, around learning patient safety.

If you look to other countries, if you look to New Zealand, where there is no opportunity for physicians to be sued if they're found negligent, even in those cases there's still a great amount of fear about reporting events

and feeling that somebody's going to be holding a witch hunt.

I think, ironically, that we're better served by creating an environment where we encourage people to come forward and we give them the opportunity to have these protected conversations, knowing that in the long run, that will create a safer for environment for care for all of us.

M^me^ France Gélinas: And you don't feel that PHIPA does that?

Dr. Ross Baker: I think it's insufficient.

M^me^ France Gélinas: It's insufficient? Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Government side, Mr. Kular.

Mr. Kuldip Kular: Thank you to you both. I'm a physician myself. It's my understanding at this point in time that any quality-of-care information related to a specific patient or to the conduct of any medical professional could be exempted through the existing protections in PHIPA. Why can you not use those exemptions?

Dr. Ross Baker: You could use those, but I'm saying that the problem with doing that is that it puts all those discussions behind a wall and then doesn't let the larger system learn from it. What we don't want is a situation where every hospital has to find a particular kind of event, do the analysis and then share the learning from that.

QCIPA does protect some events, but the hospital association has surveyed its members and discovered that the great majority of hospitals—70% of hospitals—do most of their investigations outside of QCIPA because they feel it's a more structured environment for learning about care and learning what can be done to improve care, rather than using the legislative requirements.

If we were to create a situation where the hospitals felt that any discussion about patient safety could happen in an open environment and be disclosed, then I think we would push more of those discussions under QCIPA, and ironically, we would end up in a situation where there's less opportunity for hospitals to learn about what needs to be done to protect patients.

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Ms. Jodi Butts: Also, add to that?

The Chair (Mr. Shafiq Qaadri): Please, yes.

Ms. Jodi Butts: Thank you very much. While certainly a lot of these reviews start with an individual patient, they often grow well beyond just an individual patient's case. What I think Dr. Baker's study has demonstrated is that many errors are created by a system. Many of the documents generated as part of these reviews don't necessarily refer to an individual patient, so it doesn't meet that definition of personal health information because they're more grounded in system reviews. So while they're definitely targeted at improving the quality of care, you can't necessarily—

The Chair (Mr. Shafiq Qaadri): I need to intervene there. Thanks, Dr. Kular, and thanks to you, Ms. Butts and Professor Baker, for your deputation on behalf of the Ontario Hospital Association.

NATIONAL CITIZENS COALITION

The Chair (Mr. Shafiq Qaadri): I invite now our next presenter to please come forward, Mr. Coleman of the National Citizens Coalition and entourage. Please begin.

Mr. Peter Coleman: Hi. I'm Peter Coleman, president of the National Citizens Coalition. Thank you for having me here today.

Any discussion of transparency, accountability and integrity is a discussion that we, as an organization, are proud to be a part of. Frankly, I believe these factors ought to be a part of every piece of legislation and every decision carried out by our government. This is not an esoteric discussion of theory and good intentions; it's a real discussion about preventing, reducing and identifying poor governance and spending controls.

First of all, it should be understood that we applaud any efforts to improve transparency and accountability to taxpayers. It's difficult to applaud very loudly when these efforts fall short of what's necessary. This government has repeatedly affirmed its intentions to improve transparency and accountability, yet it hasn't moved with the urgency required. Let's not mince words: There's an urgency here now. When a lack of accountability and oversight leads to the waste of millions and millions of dollars, alarm bells should be ringing for everybody.

This year, taxpayers have been asked to applaud a government for returning an $18-billion deficit, which is an improvement over last year. That's not acceptable. Had proper oversight been established by this government during its two terms in office, some of these things may have gone away. We applaud you for coming forward with this bill today, but some of this stuff should have been done a lot sooner than it has been.

A major concern for us becomes the politicization of this debate. This committee should all be working together to make sure that the best thing's done to respect the will of taxpayers. There should be no partisanship allowed in this conversation. The most important part in legislation is the follow through, making sure things are done when the legislation's passed. In September 2009, the government promised that Ontario agencies, boards and commissions would post their expenses online, yet today, there's still over 500 or so organizations that have yet to do so. That's not acceptable. It shows disrespect for taxpayers.

We encourage this bill. We think the bill should be extended. It should be broader than just the health care system; it should be any government agency that gets money from the government—which is coming from the taxpayers, in reality.

There was a bill proposed by Ms. MacLeod's opposition party early in April; they talked about the Truth in Government Act. There were some concrete proposals there that we, at that time, approved. It wasn't a partisan conversation on our part; we just thought there were some good proposals there. I would urge the committee to go back and look at some of those things and see if there's some value to be included in this bill as well.

Since April, many sole-sourced contracts have still been approved. The process is still going on in many agencies. If some of these measures that we're talking about being included could be put into place today, maybe we can avoid some of the issues going forward.

I'd only repeat to you the organization's—it seems to me that we have to get back to a proactive approach to taxpayers' money and not be reacting to situations as they pop up. I think that would give everybody in government a lot more cover with the taxpayers. We have an election coming up and I think that taxpayers deserve to see that parties of all stripes in this government are doing what they have to be doing to protect taxpayers in a really difficult environment.

The most compelling argument to make these changes as far as transparency and online disclosure is that it doesn't really cost much money for the government to do. A lot of these online things can be done with virtually no cost to the taxpayer. I think a fair start would be to go back and look at all the things you've done in the last several years and say, "Have these agencies met these conditions that we've asked them to do?" If they haven't, go back and say, "We're here on behalf of the taxpayers. We're going to ring the bell. We think you need to start doing what you were told by us to do."

It's only fair in this tough economic environment, where people are making sacrifices, that they stop reading about problems in the headlines of the papers about money being wasted, consultant contracts and favoured deals. We encourage this process to stop all the way.

To conclude, you need to take a broader approach. I encourage what you've done today. I think you should include this transparency in all government agencies. Anybody who's receiving money from the taxpayers should be included in the process.

Lots of people talked about things that have to be exempt and dealt with for security reasons, as far as the privacy of patients' care. You have to consider those, obviously, but I think when it comes to money in the health care conversation—as politicians, I don't need to tell you—you're staring at half of the budget going toward health care. There's enough money in the health care system; we have to find a way to stop wasting the money that's in there and allow the care to go toward the doctors and nurses who are providing the care, and not reward people outside the system who are costing tens of millions of dollars that could be used to improve health care for all hard-working Ontarians.

Freedom-of-information request conversations have come up a few times today. It is almost impossible to get information out from any level of government. It's a frustrating process. Every year, the Ombudsman of Ontario comes forward and says it's a problem. Every level of government deals with this—not just the current government, but the ones back in the past. The bureaucracy needs to be told that they are working for the taxpayers and to respect these information requests. Sensitive information, for sure, should be kept out, but there's lots of information that people just can't get a handle on, which doesn't give any credibility to the government doing their job properly and enforcing existing rules that are in place.

The last issue I think you've talked about a bit is this issue of government contracts. I think you have lots of jurisdictions in North America that routinely post online what government contracts are over $10,000. I would encourage you to raise that level across the board to all these government agencies and not just stop at health care or other places, and enforce what rules you have in place today and make sure you expand this act, which I think is a very good first step, to include anybody who's receiving taxpayers' money.

The Chair (Mr. Shafiq Qaadri): Thank you very much. Mr. Coleman left generous time for questions, three or so minutes per side, beginning with Madame Gélinas.

M^me^ France Gélinas: I would be interested in you sharing with us examples of people who have put in a complaint and it has gone through their hospital complaint mechanism, did not get closure, did not get satisfaction, and needed to go to the Ombudsman, only to be told that our Ombudsman cannot investigate hospital complaints.

Mr. Peter Coleman: Not just within the hospitals, but I can speak for us, as an organization—we've routinely asked for information and it's been well over a year where we don't get a response. It doesn't give people comfort that the system is working well when you have the Ombudsman saying the system is not working well.

This shouldn't be about the bureaucracy trying to hide what they're doing. It just leads to a higher level of mistrust when people are saying, "I can't get information. I don't know if they're doing a good job or not. I'm asking for reasonable information and I'm getting no response."

So it's not just the health care system; I think that across the board this is a problem, quite frankly.

M^me^ France Gélinas: Can you give me an example of a freedom-of-information request you have in front of anyone right now for which you cannot have access?

Mr. Peter Coleman: I don't really want to get into conversations about things we've asked for and gone through, but we've done it over the years, in many cases, and we've routinely been rebuffed. This goes back years and years and years. It could be the Conservatives, it could be the Liberals, it could be whoever is in power. It isn't limited to one party. It's the bureaucracy and being told by the government to enforce the rules, and a lot of times they're protecting their own fiefdom too.

The Chair (Mr. Shafiq Qaadri): Mr. Kular?

Mr. Kuldip Kular: Thank you for your presentation, as well as your suggestions.

You may be aware that the official opposition voted against this bill at second reading. Do you think all the parties should support this bill, as this bill implements the Auditor General's recommendations?

Mr. Peter Coleman: As I said, I think it's a good first step; I don't think it goes far enough. I wish you would make it a much broader spectrum of the government agencies that are receiving money from, ultimately, the

taxpayer. I think it should be a much broader sector that's being included. I don't think you should restrict this to hospitals. People are talking about it within the hospital industry; there are a lot of sectors that are being excluded. I think you have to go much further than you have gone right now.

We would encourage all parties to adopt what you're talking about today, but go a step further and have much more inclusion of a lot more government agencies than just this sector you're talking about today, because there are bigger problems. You can't just say, "Well, here's a fire. We've got to put this fire out." Realize there's a fire here as far as a problem, and deal with it in the context of a much bigger problem, potentially covering a lot more government agencies than just the hospitals. I would encourage you to deal with that whole broader sector.

The Chair (Mr. Shafiq Qaadri): To the PC caucus. Ms. MacLeod?

Ms. Lisa MacLeod: I really appreciate you taking the time, Mr. Coleman. As always, the National Citizens Coalition has brought forward some very important points.

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My colleague in the government mentioned that we did vote against this bill at second reading. It is because of the points that you just conveyed. We don't feel that this has gone far enough, given the robust measures that we introduced earlier on, in May. We're here to give the opportunity to the government to adopt a more full set of rules and make positive amendments to this legislation. You mentioned a few: Whether that's online disclosure, because it doesn't cost very much; it's using information that's readily available to Ontario taxpayers today, because it's information that we already possess.

Are there any other tools that you think this committee could adopt throughout this process? I understand we have clause-by-clause amendments that are due on Friday. Next week, on Monday, we'll be dealing with clause-by-clause of this bill to improve it. Any recommendations?

Mr. Peter Coleman: I think, first of all, you need to all act as if you're taxpayers, which you are, and say, "We've got lots of regulations in place that people aren't following." I think you have to look at the existing legislation you already have there and say, "Why aren't we getting information? Why can't people get access to information from the broad segment of sectors? Why aren't we moving towards online disclosure? What is the real issue here?"

I don't think this should be a partisan thing for you. We're all facing challenges in this province, with the economic upheaval that we've gone through, with the deficits and the question of how we get back to balanced budgets. We have a health care system that's imploding, as far as becoming half of the budget. There are strains there in that situation. You have to look at every government sector, I think; go through all of them and say, "What rules do we have in place that aren't being enforced?" and put the message down in a totally non-partisan way, saying, "Enough's enough. We want respect for taxpayers' dollars through all levels of government." That's not currently happening, I don't think.

Ms. Lisa MacLeod: You mentioned that rules are in place and we're always reacting here in Ontario, and that we have an opportunity now to be proactive. One of the other challenges we face, of course, are rules that are going through this Ontario Legislature, yet once they're in place there is no regard for them. I give to you the example of Mr. McGuinty putting forward the promise that 22 of the major agencies in Ontario would have to post their expenses online. So far, according to the Ontario Taxpayers Federation, those goals have not yet been met. Is that a frustration for transparency and taxpayer accountability organizations like yourself, that there is no enforcement?

Mr. Peter Coleman: I think there's a sense in some people in the community, and we're certainly some of them, that they're above the government; they can do what they want. I think if the government makes a decision, they have to follow through and say, "We expect you to do this, and there will be consequences if you don't." That's the only way you can enforce it. They can't just sort of decide to follow some guidelines and not follow others—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. Thanks to you, Mr. Coleman, for your deputation on behalf of the National Citizens Coalition.

MS. DEBBIE JODOIN

The Chair (Mr. Shafiq Qaadri): Our next presenter is coming to us by a conference call: Ms. Debbie Jodoin. Ms. Jodoin, are you there?

Ms. Debbie Jodoin: Yes, I am.

The Chair (Mr. Shafiq Qaadri): Great. It's Dr. Qaadri of the social policy committee. You're live before a committee of Parliament. You have 10 minutes in which to make your presentation. I invite you to begin now.

Ms. Debbie Jodoin: Thank you, Chair, and thank you, committee. I'm here on behalf of the Ontario taxpayers against the eco fees.

From the onset, I'd have to say that Bill 122, the Broader Public Sector Accountability Act, 2010, doesn't go far enough when it comes to protecting Ontario taxpayers' dollars. This bill is in response to McGuinty Liberal scandals that have plagued this government for the last seven years, including the OLG, the WSIB, eHealth, Cancer Care Ontario and the Toronto Cricket Club, to name just a few. I could keep on going, but I won't.

One of the most recent scandals that I have become an activist on is the eco taxes that this government snuck through on July 1 of this year on top of the HST. To make it even worse, an official actually confirmed that the government tried to keep this hidden and made no effort to advertise that this hidden tax was coming down the pipe. On July 1, thousands of new products—over 8,000—were added to the fee list, including batteries, fire extinguishers, thermometers, alarm clocks and fish bowls, a

perfect example of how out of touch this government has become.

Since then, a group of grassroots activists that I am proud to be part of, who are upset at being taxed to death by this government, have been protesting across Ontario. We are protesting because this government backtracked on the eco tax implementation to do damage control for an ill-conceived plan. Ontarians still have not received a penny back on all these fees we were charged between July 1 and July 20. Ontarians have been ripped off by the eco fees. We want our money back, and we deserve our money back. It is ridiculous and unacceptable for any government to do this to the taxpayers. It is not your money; it is our money.

Bill 122 is just another example of how this government is reactionary rather than proactive, something that governments are supposed to be. Bill 122 is filled with loopholes, exclusions and ministerial interference that are too many to count and allow the government to bypass all the things the voting public want and expect from our elected officials and not a corrupt Liberal Party.

It's only because you've been caught yet again taking advantage of Ontario families. You've picked out of our pockets at a time when we cannot afford to pay any more, and to give it back to your Liberal-friendly consultants. We are tired of it, and we want more accountability in the process here. Bill 122 stops short of what the PC caucus would have enacted with the Truth in Government Act and does not go far enough to protect our tax dollars. Ontarians deserve respect, and this bill does not offer it.

The Chair (Mr. Shafiq Qaadri): You have concluded, Ms. Jodoin?

Ms. Debbie Jodoin: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you. We have a lot of time for questions, I guess about four minutes or so per side, beginning with the government.

Mr. Kuldip Kular: Thank you very much for your presentation. I really understand and appreciate the points you have tried to make.

The Chair (Mr. Shafiq Qaadri): To the PC side: Ms. MacLeod.

Ms. Lisa MacLeod: Welcome, Ms. Jodoin. I just want to point out to folks what you were up to this past summer and why you're appearing here today, because in my city that I grew up in, or that I represent—I shouldn't say I grew up there; I grew up in Nova Scotia—where I learned to pay taxes, in Ottawa, you have made headlines in our city, and I just wanted you to tell the committee a little bit about that.

Ms. Debbie Jodoin: We've been protesting the McGuinty government on the eco taxes. We're quite upset that there are unelected officials taxing the people of Ontario. This is taxation without representation. This is a no-go with the people of Ontario. We've been heard right across this great province. It's time that the Liberals come forward. You're sitting on $76 million in eco fees, you charged us another $5 million while you were in a coma, and now you just gave the municipality another $12 million. That's $91 million unaccounted for. Where is it? We want it back.

Ms. Lisa MacLeod: I appreciate that, Ms. Jodoin. You brought up the eco taxes. I guess that's probably your biggest issue right now: that money that has been unaccounted for throughout that debacle, and I guess that speaks to the larger issue. Is it your opinion that this legislation, while it's a start, doesn't go quite far enough and in fact should be more of a proactive plan rather than a reactive plan, perhaps even looking at something like the federal government enacted with the ethics package that they put forward?

Ms. Debbie Jodoin: Yes. I believe that all governments should be proactive, not reactionary. You're there, and you're representing us, the people of Ontario, not yourselves. You're there to make sure that our money is protected and well spent, not on your friends and consultants. We can't afford this anymore. We need—

Ms. Lisa MacLeod: Just a final question, Ms. Jodoin. How many taxpayers in the city of Ottawa do you currently represent?

Ms. Debbie Jodoin: About 2,000.

Ms. Lisa MacLeod: Excellent. Well, listen, thanks very much for taking the time today. I'm sorry that we couldn't be in Ottawa, myself and the third party. The official opposition and the NDP both requested that we go to Ottawa to talk to—

Interjections.

Ms. Lisa MacLeod: Sorry. The Liberals are trying to shout me down here, but the reality is that the official opposition tried to get to the city of Ottawa, but the Liberal government voted us down. They're trying to shut us down on this accountability bill. It's unfortunate, when you're dealing with transparency and accountability, that they will shut you down as they're trying to do to me right at this point. Thank you very much.

Ms. Debbie Jodoin: Well, keep up the fight. Thank you.

Interjections.

The Chair (Mr. Shafiq Qaadri): Gentlemen, I would invite you to desist.

Madame Gélinas?

M^me^ France Gélinas: Thank you, Mr. Chair, and pleased to talk to you, Madame Jodoin.

It was rather refreshing how you stated your point. We tend to use language here that has been very washed up, but you call things exactly the way that you saw it, and it is language that I certainly fully understand. Some people here are taking a little bit of a defensive mode to this, but you are certainly free to share with us how you feel.

I agree with you that there are loopholes, especially when it comes to the exclusions to the bill. The bill won't cover long-term-care homes, it won't cover for-profit health care delivery and there is a list of exemptions that also causes us problems. I can assure you that when we go through clause-by-clause, which is what we call the exercise when we read the bills over and try to make changes, I will be bringing changes to close those loopholes, to decrease the list of extensions and exemptions so that we try to do what you, the 2,000 ratepayers who

you represent, and basically the people of Ontario want us to do. They want our health care dollars to go for front-line care, and they want people who are tasked with managing those funds to be accountable back to us, the residents of Ontario.

So I thank you. Bravo for your really open and candid dialogue with us. I think we need more of you, every now and again, to come down to Queen's Park and tell us exactly the way you see it. Merci; thank you.

Ms. Debbie Jodoin: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Jodoin, for your deputation, and to you, Madame Gélinas, for your questions.

If there are no further comments, either benign or aggressive, then I will conclude this hearing. Any further comments? Fine. Committee adjourned until tomorrow.

The committee adjourned at 1702.

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STANDING COMMITTEE ON SOCIAL POLICY

Tuesday 23 November 2010

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mardi 23 novembre 2010

The committee met at 1607 in committee room 1.

BROADER PUBLIC SECTOR ACCOUNTABILITY ACT, 2010
LOI DE 2010 SUR LA RESPONSABILISATION DU SECTEUR PARAPUBLIC

Consideration of Bill 122, An Act to increase the financial accountability of organizations in the broader public sector / Projet de loi 122, Loi visant à accroître la responsabilisation financière des organismes du secteur parapublic.

The Chair (Mr. Shafiq Qaadri): Colleagues, ladies and gentlemen, I welcome you to the Standing Committee on Social Policy. As you know, we're here on day two of hearings on Bill 122, An Act to increase the financial accountability of organizations in the broader public sector. We have a number of presenters.

HEALTHCARE INSURANCE RECIPROCAL OF CANADA

The Chair (Mr. Shafiq Qaadri): I would invite Ms. Stevens of Healthcare Insurance Reciprocal of Canada to please come forward. Ms. Stevens, just to inform you and subsequent presenters, you'll have 10 minutes in which to make your presentation and five minutes for questions. It will be enforced with military precision. I invite you to introduce yourself and your colleague and please begin now.

Ms. Polly Stevens: Thank you very much. I want to just introduce Pat Hawkins by my side; he's counsel for HIROC from Borden Ladner Gervais. He is here to answer any curveballs related to legal or technical matters that I might not be able to answer.

Thank you very much for this opportunity to present to you today. I just want to draw your attention to our handouts. There's a PowerPoint presentation which outlines my speaking points for the oral presentation, as well as a written submission which includes more detailed analysis.

Turning to the second slide, I just quickly want to review Bill 122 and particularly our issues with the freedom-of-information act amendments that are proposed. The bottom line is we think that it will expose important quality improvement documents. We think a small change will make a world of difference. There's just a little bit about HIROC and me to establish some of our bona fides and why we are concerned about this. There's talk about our risk management programs—they're evidence-based and effective—and how they could be negatively impacted by this.

Bill 122, the bottom line: We see this as a welcome development, certainly improved financial accountability, but it does catch up some issues related to quality improvement. There is a gap, we think, in section 24, the proposed amendments to FIPPA. We think quality improvement and risk management information is exposed, and we think that will have a negative and unintended effect on quality in Ontario, particularly the programs that we engage in with our hospitals.

Slide four: We just request an additional clause in the amendment to FIPPA section 65, which is outlined in section 24 of Bill 122. We would like an extension to include a clause (e): "a record prepared for or by a committee or other body of a hospital for the purpose of risk management or for the purpose of activities to improve or maintain quality of care."

This is actually language that comes out of existing legislation, the FIPPA legislation, which outlines that personal health information can be used by hospitals for quality improvement and risk management purposes, so it's a concept that's already well understood.

Just a bit about HIROC and me, to establish our credibility and why we care about this. HIROC arose in the late 1980s, when there was a crisis in the commercial medical malpractice insurance markets. Hospitals either couldn't get medical liability insurance, or what they could get was really astronomically expensive, so they got together and formed a not-for-profit reciprocal. It's really owned by hospitals and other health care providers. Unused income is returned to hospitals, so there are no profits involved.

HIROC plays a unique role—which has already been recognized in PHIPA—where we're allowed to do systemic risk management reviews.

In terms of my personal background, I have a clinical professional background, but over the last number of years I have transitioned into a career that is really focused on patient safety, risk management and quality improvement.

I joined HIROC in June of this year, but prior to that, I was 10 years at the Hospital for Sick Children, director of

quality and risk management there, and helped lead the organization through some very difficult times over the last 10 years, to the point where here I am. Sick Kids is really recognized as an international leader in patient safety.

I'm fully supportive of disclosure of adverse events in health care. I've done research on that, and other peer-reviewed journals have been published. I want to draw your attention to the latest publication that I and my colleagues at Sick Kids just published. It really relates to the learnings from about 90 critical incident reviews that we've done at the hospital and what are the lessons learned.

Really, I know health care and have a good understanding of the levers that help or hinder the development of a quality improvement culture in health care.

HIROC's approach: It's about partnering to create the safest health care system. We are a recognized leader in patient safety, and we have many partners out there, including the Canadian Patient Safety Institute.

HIROC's approach is to look at adverse events in health care, look at those that are preventable, and try to decrease that. The circles that you see—there's a diagram on page 8 that outlines that.

We know that about 8% of patients who enter hospitals have an adverse event. Slightly less than half of those are preventable adverse events, and about 3% of those result in claims. Our approach is not about preventing adverse events converting to claims, but preventing adverse events, full stop.

We have very many risk management programs, but the one I want to highlight is our risk management self-assessment modules, which are based on 20 years of claims experience. We know that there are things that happen in claims, so what we've done is take our claims data research and other case law and convert that into a self-assessment program so that hospitals can learn from each other in how to prevent adverse events.

We ask pointed questions; we require critical self-appraisal and brutal honesty; and as a result, hospital documents are created. This has resulted in significant practice improvements in hospitals over the years. We do keep track of hospitals on a year-by-year basis and have found that significant changes are being made.

We also, through the process of our risk management discounts, are able to help fund quality improvement work. So when people in hospitals enter into our programs, they get a decrease on their premiums, and this has resulted in some great resources being returned to the health system for quality improvement.

The effect of Bill 122: Historically, these hospital documents have been prepared in confidence for quality improvement purposes. Under Bill 122, only QCIPA documents are going to be protected.

I know from personal experience that QCIPA is a welcome addition to the hospital system, but it does not go far enough and is not used, typically, for the kind of reviews that we're talking about. These would be system-wide reviews, looking at extensive practice issues in hospitals.

We know that if these were to be produced or disclosed, it would have a chilling effect on risk management and quality improvement programs. We've heard from risk managers. All it would take would be one request in one hospital, and participation in our programs and, really, other quality programs, may diminish.

Coming back to what we're asking, again, we think a small change could have a big impact. Adding this clause, which is already recognized in FIPPA, would really go a long way.

I think I'm under my time. I hope I've done a credible job of outlining our concerns. Thank you for listening, and I'll certainly entertain questions.

The Chair (Mr. Shafiq Qaadri): Thank you. We have three minutes or so per side, beginning with the PC caucus. Ms. MacLeod.

Ms. Lisa MacLeod: You did an incredible job, a great job. I really appreciate your coming here today and focusing on what's important and how this will impact what you do for Ontario patients and for Ontario hospitals.

You mentioned that without this small change, quality may diminish. Can you expound upon that?

Ms. Polly Stevens: Really, what we're asking is critical self-analysis. We ask a lot of questions, and some of them are fairly brutal, I would say, and we ask and hope for honesty. There is a lot of material in there. In the written submission, you'll see some of the questions that we're asking about everything: "Do you have a fever protocol for pediatrics?" "Do you have physicians personally see patients before they're discharged?" and things like that.

We know that by entering into this process, hospitals have changed practice. If they didn't enter it, they might not have changed practice, and we know that these are appropriate things that need to be done.

Ms. Lisa MacLeod: So it's essentially quality control as well and ensuring that the right information will get out rather than the wrong information?

Ms. Polly Stevens: Yes.

Ms. Lisa MacLeod: Of course, you welcome greater transparency, I'm sure, in Ontario hospitals and understand the need: so that taxpayers understand that their dollars are being spent wisely.

Do you have any other views on the bill per se, or is it just this specific clause?

Ms. Polly Stevens: This is really what we're focusing on. As we said early on, we appreciate the focus of the bill, financial accountability, but we know that it has caught this one issue up in it as well.

Ms. Lisa MacLeod: Do you foresee any problems if there are not changes? I understand that there could be challenges if that small change isn't made, but do you see a real possibility of a problem once this bill is enacted?

Ms. Polly Stevens: Absolutely, and that's the word we're getting from our risk managers and patient safety experts in the hospital system.

Ms. Lisa MacLeod: Were you consulted at all on this legislation before it was brought forward?

Ms. Polly Stevens: I would say no.

Ms. Lisa MacLeod: I'd be happy to put forward this amendment for you when it comes time to do clause-by-clause.

Ms. Polly Stevens: Thank you.

Ms. Lisa MacLeod: Thanks very much. You did a great job.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. Madame Gélinas.

M^me^ France Gélinas: Thank you very much for coming. The OHA was here yesterday, and they brought the identical issue, and their recommendation for a change in the wording is slightly different, one word different, but very similar.

We've had deputants talk to the other extreme, as in they have tried to get information from other agencies that have FOI and get very little of it. I'm trying to understand: Everything that a hospital does could be interpreted as something useful to improve quality, so where would you draw the line?

Ms. Polly Stevens: Going to my focus in previous research and disclosure of adverse events, when something bad happens to a patient in a hospital, they are absolutely entitled to know what happened. They need to know the facts related to that.

What we're talking about here is a big-system review. It's not patient-specific. There is not identifiable personal health information, but just like we know from the principles of QCIPA, health care providers need to have a safe environment in which they can challenge themselves, have those discussions and ask themselves the hard questions. If they know that that's going to be produced, it will really just shut down some of that activity.

M^me^ France Gélinas: I understand the principle of it, and I support quality improvement. What I'm afraid of is that some hospital will interpret this as everything they do. Would you be satisfied if it would have to be captured in writing? It would have to be captured in writing under an item in the agenda that clearly says "quality improvement," and whatever is under that discussion then becomes outside of FOI. But anything else that has been shared during a meeting that could be used for quality improvement, if it was not captured on the record as under the heading of quality improvement and risk management, would be fair game for FOI.

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Ms. Polly Stevens: I guess I would have to see some of the specifics. I can't necessarily answer. If it's just a technical question—did they miss including that in the agenda?—I'm not sure. I do support, certainly, the Excellent Care for All Act. Certainly hospitals putting together their quality improvement plans every year, having a select panel of patient safety indicators, which are publicly reported—that's absolutely appropriate. But we know that each indicator is carefully selected—

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas.

To the government side, Mr. Johnson.

Mr. Rick Johnson: I understand that no other province has exclusions for this type of info, only exemptions. Would you be happy with an exemption, which would have to meet a compelling public interest test?

Ms. Polly Stevens: I just know that even if it's just an exemption—it would just create a lot of work in the facilities having to operationalize that challenge, a lot of time spent. Just the opportunity cost involved in working through all of that—I don't know that that would go far enough.

Mr. Rick Johnson: Do you agree in principle that hospitals, as large, public sector organizations, should use best practices when it comes to procurement, such as competitive tendering?

Ms. Polly Stevens: That's really not my area of expertise.

Mr. Rick Johnson: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Stevens and your colleague, for your deputation on behalf of Healthcare Insurance Reciprocal of Canada.

MS. CYBELE SACK

The Chair (Mr. Shafiq Qaadri): I invite our next presenter, Ms. Cybele Sack, to please come forward. Ms. Sack, you've seen the protocol. You have 10 minutes. I invite you to—

Ms. Cybele Sack: Just let me sit down.

Hello. Good afternoon. My name is Cybele Sack. I'm here today with ImPatient for Change, a new patients' rights organization whose goal is to exchange information about patient safety and to advocate for medical reform in the public interest. We believe that every patient matters.

I would like to explain to you what kind of impact accountability and transparency legislation has on patient safety from my perspective as a patient who has survived a negative and preventable medical experience, still not counted in the hospital statistics.

Patient safety is in the public interest, and patient rights are human rights. Every Ontarian is a patient because we all have interactions with the medical system. Every time we go to a hospital, we face an unknown statistical risk of falling prey to medical error. In 2008, it was me; tomorrow, it could be your mother, sister, son or grandchild.

In 2008, I went to a hospital with appendicitis, but after too long of a delay in ER, my appendix burst. Because of a series of errors in diagnosis, care and decision-making, and because of systemic weaknesses in the hospital, I did not receive surgery for over five months and had to switch hospitals to get it done. This wait time resulted in very serious acute complications, putting my life at risk, and then lingering chronic and painful complications, which kept me out of work for over two years.

According to a study funded by Health Canada, more Canadians are dying from preventable adverse events in

hospitals than from breast cancer, motor vehicle accidents and HIV combined.

We believe that these injuries and deaths are happening because we lack a culture of accountability and transparency, and we think it is possible to bring the number of deaths and injuries down, if the government would only set up independent and patient-focused mechanisms to learn from our experiences.

This means we need independent oversight over hospitals and other treatment in medical facilities in this province, where patient complaints can be investigated, where information about patient safety is made public and where binding recommendations are enforced and changes measured. The first step to creating these mechanisms is to enshrine them in law. Let's start with Bill 122.

The Ontario Hospital Association claims that releasing information to the public will undermine patient safety culture. I object to this. I don't see how we are increasing patient safety culture by excluding patients and the public from a discussion about our problems. Patient safety culture needs patients.

It is in the interest of the public and of patient safety to transparently report all data—excluding identifying information—related to death and injury. In order for us to learn from our mistakes, we need to know where the problems are. We therefore request that legislation involving access to health care information make it clear that patients' rights to safe care are a priority, above any other interests, and that quality-of-care information be made explicitly public.

Yesterday, the OHA asked your committee to keep medical error private, to exclude quality-of-care information from freedom-of-information and anti-lobbying legislation. The OHA says this specific exclusion clause will encourage doctors to come forward, because doctors will be reluctant to admit to error if they might be vulnerable to public embarrassment and accusation. But the OHA is not asking for names to be stripped; they're asking that the information not be made public at all. The OHA wants to extend the privacy in QCIPA without the strict parameters, so that doctors and hospitals won't be held liable for any information divulged during discussion about patient safety issues, no matter the context.

After the Toronto Star ran a series by Rob Cribb about patient safety, the government promised to make adverse event information accessible. We hope you will not go back on your word to the public about this. We need dialogue about medical error.

Patients, academics, media and members of the public must get access to information which will help advance the cause of patient safety. Otherwise, we will have no way to independently assess the gaps in the quality of our health care system, and we won't know what the biggest sources of medical errors are. If this OHA, OMA and hospital insurance company amendment goes through, it will be at the expense of patients and the public's right to know.

Ontario is the only province without hospital oversight. In Manitoba, for example, patient reports are investigated and lead to recommendations which are applied across the system. I tested their phone line with my own story, and their patient voice facilitators were ready to launch an investigation of my case until I told them I lived in Ontario. I was disappointed that I could not benefit from the impressive level of service I received because of my address.

If we allow the medical industry to lobby against independent oversight of hospitals and other medical facilities, against transparent reporting of data relating to injuries or death or against mandatory reporting of drug-adverse reactions, then we are legally allowing professional interests to stand in the way of the public interest. The Minister of Health said yesterday that the practice of the Liberal government is not to allow lobbyists in. Let's make that practice law.

We appreciate the government's recognition of the importance of patient-centred, excellent and publicly accountable care in the preamble of Bill 46, the Excellent Care for All Act. But Bill 46 does not include a mechanism for independent oversight and investigation of patient complaints.

Both opposition parties have introduced bills designed to give the Ontario Ombudsman oversight over hospitals and medical facilities. The most recent example is Bill 131, which passed through first reading. We encourage the government to adopt this bill or introduce their own, giving the Ombudsman the power to independently investigate patient complaints. Because it is so onerous for patients to complain using current channels to get justice and to make changes, we believe the message is that patient safety doesn't matter enough to our government.

Medical errors are costing lives, costing time and costing money. Right now, tax money is used to defend doctors and hospitals when claims are made against them, but no tax money is spent to protect patients who have been hurt or to measure who has been hurt and why. Independent oversight over hospitals and medical care would help even the playing field.

Why am I the only one speaking on behalf of injured patients for these committee meetings? More effort must be made by this government to consult with the public. We should not let special interest groups dominate this discussion. Yesterday, I asked the Minister of Health and the parliamentary secretary for health, Dr. Kular, if they would commit to meeting with me, but neither said yes.

There is an urgency to this legislative exercise. We are losing lives, time and money every day that goes by without protection for patient rights. I hope you will recognize what that means for some patients—each hour of pain or, perhaps, the last second of their breath. Politics is a slow process that we can barely afford.

My primary three recommendations to your committee are that you (a) ensure that patients have the right to access quality-of-care information, (b) that you adopt Ombudsman oversight of hospitals, and (c) that you engage in more public consultation about patient safety and quality of care.

Medical errors happen because we allow them to happen, and they are repeated because we allow them to be repeated, at tremendous human cost. I echo Allan Cutler's comment yesterday when he said he supports "the ability to open up and expose anything to daylight."

The Chair (Mr. Shafiq Qaadri): Thank you. Madame Gélinas, about two and a half minutes.

M^me^ France Gélinas: Thank you. It was a very dynamic presentation. You made your point really clear. I agree with what you're saying. We need to give people who have questions a chance to be heard, a chance to bring closure and a chance to have access to all of the information.

I can tell you that you are not the only one who spoke against taking exemptions to FOI. When the RNAO—that's the Registered Nurses' Association of Ontario—was here yesterday, I asked them, what did they think about excluding the quality element from FOI? And they spoke in exactly the same language you did. They saw that it was better for this information to be known and to be accessible because it is better for patient care. When the Ontario Health Quality Council came and presented yesterday, I did the same thing. I asked them if they thought quality elements should be exempt from access to freedom of information, and here again they used your language and said people need to have access to that information, and it should continue to be available.

I also thank you for your support for bringing Ombudsman oversight of our health care facilities. To this day, I don't understand why Ontario sticks out as the only province and jurisdiction in Canada that does not have Ombudsman oversight of our hospitals. Although the Ombudsman doesn't have oversight of our hospitals, he gets over 350 to 360 requests every year, and he has to say, "I'm sorry. It is outside of my mandate."

This is not acceptable, and I support what you have brought forward. There's a difference between having access to information and having an advocate speak for you, and this is what the Ombudsman will bring.

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I see that you now have a blog, a Facebook address and a Twitter address for patients to join. I sure hope that a lot of people join your group so that you are giving patients a voice.

I thank you for your deputation.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. To the government side: Mr. Johnson or Mr. McNeely?

Mr. Rick Johnson: It will be me.

This bill is in direct response to the Auditor General's report on consultant use at the ministry, the LHINs and hospitals. Do you support what's currently included in the bill in this area?

Ms. Cybele Sack: In terms of the LHINs, you mean? Is that what you mean?

Mr. Rick Johnson: On consultant use with the LHINs and hospitals.

Ms. Cybele Sack: The only thing I would add, in terms of if you're talking about consultant use and lobbyists—I've included, actually, several extra pages that I didn't get to: the recommendations that I think are in the interest of patient safety, as well as provisions in Bill 122 which I think should be reconsidered, given the patient safety context. I hope you'll have a look at those, as well as another document by a law professor that goes through some of these issues in greater detail.

I think the most important thing that I feel I need to say about LHINs is that, because of their lack of accountability, they are not providing the same oversight that other provinces are getting from their regional health authorities.

We have an issue where, if we were to come up with this patient safety office, where would we put it? Maybe under the Ombudsman, because we can't trust the LHINs. I think we need to deal with the LHINs to make them more accountable, including getting rid of lobbyists so that we can actually have some oversight.

Mr. Rick Johnson: Are you aware, too, though, of the Excellent Care for All Act, passed earlier this year, which makes it mandatory for hospitals to have declarations of values and a patient complaint process?

Ms. Cybele Sack: Yes. The problem with internal complaint processes—I experienced this myself as a patient who was hurt and then tried to use it—is that there's a conflict of interest. As you can tell from the last speaker, there's this issue that the hospital is put in where they may genuinely want to improve the quality of care but they also need to protect the hospital from lawsuits. I'm not saying that they only do one—they probably do both—but it doesn't put them in a position where they can objectively look at a patient complaint and find for the patient, for example. So that's a problem. That's why we need something that's independent, where they don't feel like their job is in jeopardy if they say, "You know what? The patient was hurt and what we did was wrong."

Mr. Rick Johnson: Thank you. I appreciate the work you've put into this document. I was going through it as you were speaking.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. To the PC side: Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation. Two quick questions: I'm going to follow up on the LHINs, or the regional health authorities, depending on which province you're in. There's at least one province that's eliminating the regional health authorities because they've seen that they haven't improved patient care or access.

Would you support—I'm going to assume that you would support an amendment that would include allowing Ombudsman oversight for hospitals?

Ms. Cybele Sack: Absolutely. I fully support that. That would be fantastic.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Thanks to you, Ms. Sack, for your deputation and presence.

ONTARIO NONPROFIT NETWORK

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter, Ms. Eakin of the Ontario Nonprofit

Network, to please come forward. Your materials have been distributed already by our able clerk.

Just to let the committee know, our 4:30 presenter, Mr. Kelly, has cancelled.

You've seen the protocol. You have 10 minutes in which to make your presentation. Please do introduce yourselves and please begin now.

Ms. Lynn Eakin: Thank you, Mr. Chairman, and members of committee.

I'd like to introduce my colleague Jini Stolk, who's the executive director of the Creative Trust and a member of the ONN steering committee.

I'm the interim executive director of the Ontario Nonprofit Network, which serves 40,000 community-based charities and non-profits working in Ontario, and it is many of these organizations that are being swept up into Bill 122.

We're here today to ask you to amend Bill 122 to remove the Ontario transfer payment organizations from your definition of broader public service organizations. These independent, community-based organizations are not big institutions, and government procurement policies will hinder and hurt the work these organizations do in local communities. Lack of consultation has resulted in these organizations being included in this bill.

Government and institutional procurement policies are totally inappropriate, and you're asking community organizations to comply with them at a time when they're enormously stressed. Demand for their services is skyrocketing as Ontario goes through the most major restructuring of our economy in living memory. Community organizations are the ones in the trenches dealing with the distressed families and disrupted lives in these extraordinarily hard times. Moreover, they are doing so with no budget increase and frozen staff salaries.

Since the deep budget cuts of 1995, these organizations' budgets have been essentially flatlined. They've cut all there is to cut, and their salaries lag well behind both the public and private sector. Transfer payment organizations are the poorest organizations in the province, yet they toil away in their communities, serving with a dedication beyond all reasonable expectations.

Even the largest community-based organizations delivering services in your communities are not institutions, but rather clusters of different community services grouped together so the people they serve do not fall through the cracks. Each program is small, personal and deeply embedded in the communities they serve. The clusters of services will typically have five or more different funders, all with different contracts, all with different terms and conditions and all extremely tight in accountability.

Transfer payment organizations will typically have to get prior approval from their funder for any deviation from budget. Indeed, as I demonstrated in a recent report, We Can't Afford to Do Business This Way, the administrative and accountability burden on these organizations is already crushing and hindering their ability to respond creatively to changing conditions and shrinking resources in communities. They do not need additional administrative requirements placed on them at this time, particularly ones that are not appropriate or helpful.

But there is an even more serious threat hidden in government procurement processes, a threat to the very principles upon which these organizations operate.

Let me make clear the organizations we're talking about: shelters for abused women, services for families seeking help for their troubled child, adult mental health services, services for people with developmental disabilities, services for families facing eviction, retraining for displaced workers, settlement supports, arts organizations, major sports organizations, youth services in troubled neighbourhoods, early childhood drop-ins, Meals on Wheels, and the list goes on. Most of you will have visited one of these organizations recently, and if you think about it, you will know that procurement policies based on principles followed by government are the last thing they need.

Most of the funds you give them are tied up in salaries. Some goes to rent. You rarely cover all their costs. Their biggest outside procurements are typically food, drugs and professional services that they can't afford to have internally in their organization, such as psychiatric consultation, IT support or accounting. Any significant external purchase is put to tender if necessary, but the first option is to have it donated or deeply discounted by sympathetic local businesses.

If you have not recently read the procurement guidelines for government, you may not know that the principles and practices behind them are only appropriate for large institutions and government. Principles of interprovincial trade, multiple levels of segregated decision-making, prohibitions from buying local and requirements to tender are fundamental tenets of government procurement. And so they should be.

Transfer payment organizations are the exact opposite. Operating independently between government and communities, they are all about local. They are all about relationships with the people and communities they serve. Let me illustrate.

Food is a significant cost for many services. Under the institutional procurement guidelines, they would tender their food purchases on MERX, the Internet-based procurement site used by government for a single provider. To accommodate a sole provider, they would have to reorganize their staff to centrally order food and oversee delivery across the homes spread throughout their community.

This approach is the antithesis of what happens now in your communities. Indeed, the very reason you fund community organizations is because they are not government and can be with people and work in communities in a way that government cannot.

What happens now in the women's shelter or the residence for people with disabilities is that each residence has a food budget, and the staff, along with the residents, plan their menu. Then they head off to the local grocery store where they load up the cart, carry it home

and cook it together. Think how healing it is for a young mother who has recently fled an abusive relationship to be able to give her child their favourite food.

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Consider also the pride and satisfaction of the people with disabilities as they work to prepare their special meal in the house. To participate with others in such a timeless activity, feelings of friendship and caring and belonging—it's these activities that the bill threatens.

We know that for smaller organizations, procurement policies so far are just a guideline; they don't have to follow them. But it's a slippery slope, and at any time they could be made mandatory.

In addition, if it is procurement today, what will it be tomorrow? In any case, why would you want to have guidelines that require volunteer boards of directors to defy them to stay true to their principles and values? That's not how you support your community partners. Moreover, for the larger transfer payment organizations, the harm is immediate as the procurement requirements are mandatory.

The auditor who does the local women's shelter audit at half price, the psychiatrist who makes time and loses money to support staff to manage some challenging behaviours, the local businessmen who give their cast-off furniture to the local agency, all the people receiving help, their families and neighbours—none of these people are asking you to impose this added burden, this make-work project, on local organizations.

There's no justification for these organizations to be included in this bill. It will do harm. Government procurement policies are not able to value relationships and local community connections.

I'm asking you all to do the right thing for the non-profit and charitable organizations working in communities, lifting people out of despair, making hard lives easier and building caring communities.

Please—we beg you—do not impose government procurement policies on your community-based service partners. Pass the amendments we have put before you.

Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you. We've got two minutes per side, beginning with the government. Mr. McNeely?

Mr. Phil McNeely: Thank you, Chair. Thank you very much for your presentation. You make some excellent points on what happens with these large pieces of legislation when it comes to small organizations that are dealing, generally, with volunteers.

We might want some advice from you on how the government could implement the broader public sector guidelines for organizations under $10 million if Bill 122 is passed.

I'd just like to ask you this question: The official opposition wants to place even further burdens on small organizations, including bringing them under freedom of information and posting all contracts. What would you think of that for your organization?

Ms. Lynn Eakin: I think I made it pretty clear that I think it is the polar opposite of what you actually want out of your community-based agencies. I don't think you understand how important the interactivity from these agencies with their local communities is, one, to their survival, and two, to the kind of work they do in communities with people. I think that you will do untold harm if you bureaucratize these organizations.

They already put out to tender. If they can get better prices, or if they haven't been able to get a half-price deal someplace, they put things out to tender and are required to put things out to tender by their funders already.

Mr. Phil McNeely: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McNeely. To the PC side. Ms. McLeod?

Ms. Lisa MacLeod: Thanks very much, Chair. Thanks very much for coming in. I appreciate you being here today. I appreciate the passion and the heart with which you have brought your presentation forward.

Moving aside from procurement for a moment, what organizations—how do I ask this delicately? What is the amount of money that the majority of your organizations are receiving? Can you give me an average? From the government.

Ms. Lynn Eakin: From the government? No, we don't—but we do know that the majority of organizations would be well under $500,000.

Ms. Lisa MacLeod: So the majority would be receiving well under $500,000?

Ms. Lynn Eakin: There are some bigger ones. Depending on the program, some organizations are larger, but they range in size and the government funds the full range.

Ms. Lisa MacLeod: Okay. So let's look at it this way: If there's $500,000 coming from the province of Ontario or the government of Ontario to an organization, what are the appropriate controls for transparency and accountability for how those tax dollars are spent?

Ms. Lynn Eakin: They already are on, typically, line-by-line budgeting that they submit in great detail. If they're buying capital purchases, they usually have to identify those capital purchases to the funder for prior approval. They submit detailed reports. They have to request permission prior to being able to make any adjustments in their budget. Typically, if those are coming from various ministries, they're reporting, on separate reporting formats, to the various ministries on separate budget lines.

Ms. Lisa MacLeod: But you don't think that information should be made available to the public, if it's their tax dollars?

Ms. Lynn Eakin: Sorry; what are you asking?

Ms. Lisa MacLeod: I'm asking, I guess—for example, say that $500,000 is given to a transfer agency, and you're having an agreement with the provincial government, whichever ministry it is, or agency. Do you agree that there should be transparency to the public for those tax dollars?

Ms. Jini Stolk: May I? Non-profit organizations are required—

The Chair (Mr. Shafiq Qaadri): Apologies, Ms. MacLeod. I'll need to intervene there. In the absence of the third party, I will thank you for your deputation, Ms. Eakin, and for your presence here.

CONFEDERATION OF ONTARIO UNIVERSITY STAFF ASSOCIATIONS AND UNIONS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Mr. Barry Diacon of the Confederation of Ontario University Staff Associations and Unions. Welcome, Mr. Diacon. Please begin.

Mr. Barry Diacon: Thank you, committee members, for inviting me to make a presentation.

The member groups of my organization, COUSA, represent a diverse variety of non-academic employees at many universities in Ontario. We are secretaries, technicians, lab assistants, academic counsellors, administrators, library assistants, clerks of various kinds, labourers, skilled trades workers, research nurses, research engineers, scientists and many others.

We welcome the scrutiny which has been placed on the hiring of lobbyists by publicly funded organizations in Ontario, including some of our universities. We have always believed that Ontario universities are adequately served by their respective public relations departments and through the organization of their administrations, the Council of Ontario Universities. We were quite shocked to learn that some of our institutions were engaged in expending public funds on consultant lobbyists.

I should hasten to add, however, that our organization supports increased government funding for universities. We think that the proportion that comes from tuition is far too high and threatens to erode accessibility of universities for many deserving students.

The use of consultant lobbyists diminishes the credibility of the whole campaign to increase government support for universities. It also puts universities into competing with each other more so than they already are. Once you get this thing started, then we're sure it could ramp up quite a lot to where all the universities, then, would soon be using lobbyists.

So we welcome the initiative to ban the hiring of lobbyists using Ontario public funds, but in the case of universities, we fear that the proposed law does not go far enough. Universities have many sources of funds besides the Ontario government funding. A short list includes:

—tuition paid by students which is regulated;

—tuition paid by students which is unregulated;

—grants from various governments and their agencies, including the Ontario Ministry of Health; the Canadian federal government, through SSHRC, NSERC, MRC, CFI etc.;

—grants from agencies in other countries, like the National Institutes of Health and the US military;

—grants from various commercial or charitable organizations for research;

—bequests from various private donors, most of which is designated for a particular purpose, but some of which is not designated;

—interest which the universities earn on short-term investments on unexpended funds, mostly from the advance government funding, student tuition and bequests; at McMaster alone, the short-term investment pool varies between about $40 million to $80 million over the course of a year, depending upon when the tuition has to come in.

—then, of course, there's also capital from bond issues.

In short, it's easy for universities to pretend that the source of payments for lobbyists comes from some source other than public funds.

So we would like to suggest certain modifications to the proposed legislation. The easiest and most straightforward would be to include "(b)" in the list of organizations to which section (1)(a)-(1)(b) applies, so that it would read:

"(b) in the case of an organization referred to in clause (2)(a), (b), (c), (d)" and so on—in other words, all of them.

A fallback position would be to include in the definition of "public funds" all student tuition fees and all interest or revenue which the universities earn from funds which commingle public funds with other sources of funding. In other words, the interest is quite a large amount of money, and you can buy all kinds of lobbyists with that money.

Thank you for listening to our submission.

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The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Diacon. We have a generous amount of time per side, I think almost four minutes or so, beginning with the PC caucus. Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much for your presentation. It was very succinct. I'm just wondering what your views are on freedom of information being extended across all public sector bodies?

Mr. Barry Diacon: That's a good thing. I know that's kind of a tangential part of this bill. It's not the most prominent part, but freedom of information is very good. Universities resisted it for a long time because they didn't want to set up the mechanisms and they didn't want to share any information with anybody. Particularly, they didn't want to share the compensation of their chief executive officers.

The Hamilton Spectator has been very diligent at getting out all that information, not only for McMaster but for all the universities, and posting it on their website. So I have to commend the Hamilton Spectator for doing all that research for all of us.

Ms. Lisa MacLeod: Great. What about disclosure of hospitality expenses and travel expenses with organizations who are using public money?

Mr. Barry Diacon: Absolutely. That's very important, too. McMaster has defended the travel expenditures

of Peter George on many of his foreign jaunts as being legitimate, profiling and raising of the flag of McMaster around the world. Maybe that's justified; maybe it's not. But in any case, it should be transparent and it should be freely available for everyone to see.

Ms. Lisa MacLeod: Thank you very much. I appreciate your time today.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod.

Mr. Barry Diacon: Oh, yeah, it's this side now.

The Chair (Mr. Shafiq Qaadri): No, it's to the NDP.

Mr. Barry Diacon: Oh, the NDP. Right. Sorry. I didn't know you're the NDP. I thought maybe you were, but—

M^me^ France Gélinas: That's okay. She's a Tory, but—

Mr. Barry Diacon: You're a Tory?

Interjections.

The Chair (Mr. Shafiq Qaadri): Mr. Diacon, few have made that error, but we thank you.

Mr. Barry Diacon: No, that's fine. As long as her heart's in the right place.

M^me^ France Gélinas: I can see where the confusion would come in.

Ms. Lisa MacLeod: Yeah, I have a heart.

The Chair (Mr. Shafiq Qaadri): Lisa, you must be softening up or something.

M^me^ France Gélinas: We don't get to laugh very often around there, so thank you for that.

I agree with what you've said. Wouldn't the bill make more sense if we simply banned the practice if lobbying rather than trying to define it with that pot and that pot of money? Just change the language of the bill to say, "make it illegal for organizations such as hospitals and universities to lobby"—would you see a problem with this?

Mr. Barry Diacon: No, and that's exactly what I propose: Just make it clear that none of them can do it. They have their PR departments that can draw to everyone's attention their own peculiar benefits to society, and that's good. Every university has its own particular achievements that it wants to let everyone know about, but hiring people who only do lobbying for a living to do this is a bit of a misuse, I think.

M^me^ France Gélinas: Would you feel that the funding of your particular university, McMaster, would be in jeopardy if they were not able to lobby anymore?

Mr. Barry Diacon: Well, McMaster was one of the ones that didn't engage in this practice, so I've got no fears. But this is the thing: Once some of them started doing it, and some of them did start doing it, then everyone wants to do it because they don't want to be left out. It's better to nip it in the bud.

M^me^ France Gélinas: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Now to the government side, Mr. Johnson.

Mr. Rick Johnson: Thank you for presenting today. You represent a great university. I've been there many times—

Mr. Barry Diacon: Well, I'm speaking for all of them, actually, but I happen to be from McMaster; that's all.

Mr. Rick Johnson: That's good, though. I have two children in college right now, so reading down the tuition list, I can understand some of the concerns.

Are you in favour of procurement rules being extended to universities?

Mr. Barry Diacon: On the face of it, I think it's a good idea, too. Anything which helps increase transparency is a good thing.

Mr. Rick Johnson: I know for myself, I have a great relationship with the universities and colleges in my area. The heads of universities or the colleges pick up the phone and call their MPP because that's what our job is. I appreciate the comments you've made here.

What supports and guidance do you think your members will require to comply with the new accountability provisions?

Mr. Barry Diacon: Well, some of the people who would be doing this wouldn't actually be my members. They'd be in management. Most likely it would affect managers more, but some of my members would then be tasked with assembling information and stuff like that in order to help produce reports. So it might mean that they'd have to prioritize their work and they've got to focus on this job rather than another job when the deadline's coming up to produce the report; that's all.

Mr. Rick Johnson: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson, and thanks to you for your deputation.

WATERLOO REGIONAL FAMILIES UNITED

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Carter of Waterloo Regional Families United. Welcome, Mr. Carter. You've seen the drill. Please be seated, and I invite you to please begin now.

Mr. Chris Carter: Yes, sir. Just initially, I know this isn't required as part of the protocol, but I would like to swear to tell the truth and that everything that I report to this committee today is true and factual, as I understand it to be.

This is my second time presenting to the Standing Committee on Social Policy. I also presented in December 2008 in regards to Bill 103, which was also, perhaps coincidentally, a Deb Matthews-sponsored bill. She introduced that bill when she was the Minister of Children and Youth Services. I know that this committee works because, at that time, our very serious concern about that particular bill was that one of the legislative initiatives contained in that bill would have allowed foster parents the right to intercept mail between their foster children and those foster children's lawyers, which is obviously a violation of client-solicitor privilege. Perhaps based on the submissions that the committee heard, the committee very wisely removed that aspect from that

bill, and they were not allowed to do that. Thank you very much for that.

Just very briefly, I am a 44-year-old father from Cambridge, Ontario. Due to very, very severe, maliciously perpetrated litigation against me and my four children and the mother of my youngest child, I have been denied the right to parent my children, depending on the child, from anywhere from four to two years. Obviously, today my specific concern is with the lobbyist organization of the children's aid societies, which is, perhaps, familiar to you. It's known as the Ontario Association of Children's Aid Societies.

Since the changes to the Child and Family Services Act in 1999, when the Honourable Mike Harris was in power—which resulted in the lowering of the threshold standards that allow children's aid societies to become legally involved in a family's life on the allegation that a child is in need of protection—the damage incurred by the primarily working-class and poor children and families of this province has been severe and even unspeakable in nature. I would say that there is probably not an organization in this entire country today more publicly protested against than the children's aid societies in the province of Ontario; and the lobbyist business, which has been enthusiastically working hand in hand with the children's aid societies to commit these crimes against our communities, children and families, is the Ontario Association of Children's Aid Societies.

When I'm speaking about the children's aid societies committing crimes against our communities, specifically, I'm speaking about crimes which, in my opinion, meet the Criminal Code of Canada threshold criteria for offences, such as making false statements in affidavits, perjury—or, as I more commonly identify children's-aid-society sworn statements in court, testi-lying—and also crimes which aren't identified by the Criminal Code of Canada, but are much more violently destructive and immoral, namely, using children and families as commodities that, to them, have no human worth.

I did provide a package to the committee today, and if I could ask you to please refer to the handout: the Ontario Association of Children's Aid Societies, Achieving a Better Balance, November 2004. If I could get you to turn to the third page—I didn't include the entire report; it can be found on the association's website under the position papers heading. If I could get you to turn to the third page, which is page 8 from the report. This is a report by the Ontario Association of Children's Aid Societies. In this section that I'm going to read, they are referring to something called an operational review, which is a review done on children's aid societies by the Ministry of Children and Youth Services from time to time as the ministry sees fit. If you'll look at the second paragraph, I'm just going to read it into the record.

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"Agencies also believe that that these reviews need to be performed by a dedicated ministry unit of credible reviewers with current expertise to ensure consistency. Conducting operational reviews on an ad hoc basis using ad hoc teams means that the criteria for the reviews may be inconsistent and subjective according to the reviewers selected for the" operational review. "Agencies find" operational reviews "to be very labour intensive, stressful and expensive, and believe that they should be used only in exceptional circumstances where there is a reasonable concern of fraud, poor service standards, illegal practices or other significant shortcomings in an agency's operations."

I wonder if you, honourable members of the committee, will do me just one favour today when you leave here: Consider, and perhaps even research, whether, to any of our knowledge, any children's aid society in this province has been charged under the Criminal Code of Canada with fraud. Has the Ministry of Children and Youth Services ever explicitly acknowledged that a children's aid society is perpetrating illegal practices or poor service standards? I personally have spent a lot of time and energy researching the children's aid societies and the child protection system, and I do not know of one single case where the children's aid society has been found guilty of fraud. Yet here we have their very own lobbyist acknowledging that that has occurred.

One of the things, before I go on any further—and I'm not sure if this is already part of Bill 122. I will ask the committee to consider, if it's not already part of the bill, an amendment to the bill that will explicitly establish that if a lobbyist organization privy to insider information of its client subsequently becomes aware of any Criminal Code infractions committed by that client, that lobbyist or organization is legally obligated to report that infraction to any police service.

The children's aid societies and, by proxy, the Ontario Association of Children's Aid Societies, allege to operate in the best interest of children, working to achieve child welfare. That is a disgustingly obscene position for the families and children of this province being litigated against by the children's aid societies to accept. It simply is not happening. The thing that we need even more than Bill 131, to allow the Ombudsman the authority to investigate complaints against a children's aid society, at this point, is a public inquiry into the children's aid societies.

Back to the Ontario Association of Children's Aid Societies: I think it was last year that the Ontario Association of Children's Aid Societies began an "I am Your Children's Aid" campaign. Very briefly, and I'm not sure if the protocol allows this, have any of the members been exposed to that campaign? I don't know if you've seen the "I am Your Children's Aid" campaign. It's on YouTube. It shows perhaps six or so former crown wards or foster children who have achieved, I guess, perhaps a modicum of success in their lives as a result of having been protected and raised in the children's aid society system. This flies in the face of what we often hear anecdotally from the families involved. The children's aid society will often use the position—when one of their crown wards grows up and has children of their own, the children's aid society—

The Chair (Mr. Shafiq Qaadri): Mr. Carter, I'll need to intervene there. We do have five minutes left now for

questions, which will begin with the NDP. Madame Gélinas.

M^me^ France Gélinas: Thank you for your presentation. The first question I'd like to ask is: You did mention briefly Ombudsman oversight of the children's aid society.

Mr. Chris Carter: Yes, ma'am.

M^me^ France Gélinas: This is something that I feel has been needed for a long time. Could you expand a little bit as to what changes it would bring if we had Ombudsman oversight of our children's aid?

Mr. Chris Carter: Okay. Now, I apologize, because there is no way to talk about child protection without ruffling feathers, shall we say. But my personal experience and my knowledge—acknowledging that, without a doubt, we need organized child protection in this province and this country; that goes without saying. But my personal experience is that what I will classify as the Ontario Court of Justice's secretive Child and Family Services Act children's aid society court is not just blatantly but actually openly aligned with the children's aid societies.

I don't want to make this about myself, because I am just one of an uncountable number of families who are being hurt, but I personally represented myself in a 22-day trial against the Waterloo regional children's aid society—

The Chair (Mr. Shafiq Qaadri): Merci, madame Gélinas, pour vos questions. I offer the floor now to Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation and for providing these documents. You are obviously very passionate about this. Would you support the expansion for the lobbyist ban, expense rules and procurement rules applying to CAS agencies?

Mr. Chris Carter: Most definitely. But this is a double-edged sword, because approximately just under $3 million in membership fees, taxpayers' dollars, which the Ontario Association of Children's Aid Societies currently receives from its children's aid society members—that money is just more than likely going to go to perpetrate more malicious litigation against children and families in this province. So it is a double-edged sword.

But as I was stating previously, the denial of due process and the denial of procedural fairness which is occurring in the Ontario Court of Justice against families being litigated against by the children's aid societies is severe. It's obscene, it's violently injurious, it is perverted, and I just cannot understand why the province of Ontario is allowing our families to be brutalized and destroyed by those two business partners: the Ontario Court of Justice and the children's aid societies. I don't understand.

The Chair (Mr. Shafiq Qaadri): Thank you. To the PC side: Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much. Before we went into the round of questioning, you were making an impassioned plea, and I just wanted to know if you'd just like to continue. I'd like to give you the time.

Mr. Chris Carter: Thank you very much. As I said before, I'm one of many. On the sheet, I'm identified as a representative of Waterloo Regional Families United. In 2003, in its very first year of existence, in one of its very first official acts, the Ministry of Children and Youth Services undertook to complete a research project which they titled A Review of the Legal Services of the Children's Aid Societies of the Central-West Region.

The ministry subgroups the children's aid societies into regions. The Waterloo regional children's aid society is in a region identified as the central-west region, with the CASs of Wellington, Halton, Dufferin and Peel. The sole objective of that research project was to ascertain and correct the issues which were resulting in the Waterloo regional children's aid society experiencing higher rates of litigation than any of the other CASs in the central-west region. When I put a FIPPA FOI request for that document in 2008, I was told by the ministry's freedom-of-information officer that I was wasting my time: over 50% of the document would be blacked out, and actually they assigned a fee of $187 to produce the document.

As well, I have another—just so that we understand the true nature of FIPPA FOI requests—

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The Chair (Mr. Shafiq Qaadri): Mr. Carter, with regret, I'll need to intervene there. I thank Ms. MacLeod for her questions, and I thank you for your presentation on behalf of Waterloo Regional Families United.

SERVICE EMPLOYEES INTERNATIONAL UNION

The Chair (Mr. Shafiq Qaadri): I invite our next presenter to please come forward: Mr. Callan, director of policy and capital stewardship, Service Employees International Union.

Mr. Callan, welcome. You've seen the protocol. I invite you to please begin now.

Mr. Eoin Callan: My name is Eoin Callan, and I'm with SEIU, which represents more than 100,000 members across Canada from a diversity of sectors and cultural backgrounds.

We're the fastest-growing union in Ontario, the fastest-growing union in Canada and the fastest-growing union in North America. We represent more than 50,000 members who are front-line health care workers here in Ontario, who work in hospitals, nursing homes, retirement homes, in-home care and community services—a diverse group of people, predominantly female, that includes practical nurses, personal support workers and other front-line caregivers.

I'd like to talk for a moment about accountability in the health and long-term-care sector in particular.

"High-priced hospital consultants expensing $700-a-night hotel rooms in Singapore, Christmas luncheons and boozy dinners, all charged to taxpayers"—that's how the Toronto Star described life for executives at Ontario hospitals.

The Office of the Auditor General, in an independent audit delivered to the Legislative Assembly here, provided a similar assessment in a special report in October on selected health organizations.

Jim McCarter described a hospital executive being paid approximately $270,000 annually while being classed as a consultant, and also claiming another $97,000 in fees to have another consultant perform his duties. He charged an additional $50,000 in support fees, which was not authorized but was paid, and he paid himself thousands more in bonuses. Not satisfied to stop there, the executive consultant also charged the hospital, and was paid, for what the auditor called "questionable business-related expenses" during around-the-world trips.

Unsurprisingly, the head of the Ontario Hospital Association, Tom Closson, had one thing of note to say in the wake of the report: "We apologize to the people of Ontario." The apology of Mr. Closson is noted; however, the damage has been done. Public trust has been eroded.

It is clear that a culture of entitlement has arisen among executives in our health care system, and that culture of entitlement is anathema to the values of Ontarians. It offends their sense of fairness; it offends their sense of reason. You can see evidence of this, or hear evidence of this, across Ontario, whether you're in Peterborough, Hamilton, Etobicoke or Brampton. Voters are deeply offended by how their tax dollars are being spent by executives in our health care system.

The revelations of the Auditor General show that Ontarians are not getting full value out of their investment in health care services. Too much is being wasted by executives who are taking more than their fair share and siphoning off tax dollars that should be going to front-line care.

What you have is what investors or shareholders would call an agency problem: when the owners of a company—the shareholders—have interests, and those interests diverge from those of the folks managing that company, that organization, and you have inadequate tools to hold those running the organization accountable. So they run the organization not in the interests of you, the owners, the effective shareholders in these organizations, but they begin to run these organizations in their own interest, in the interests of management.

One of the conclusions that investors or shareholders have come to is that sunlight is an important response and a vital response to the agency problem that they encounter from time to time, and that's because sunlight can be the best disinfectant.

We heard the Minister of Health and Long-Term Care, Deb Matthews, say, when introducing this legislation, that it's like pulling the fridge out. Sometimes you don't really want to know what has gathered behind your fridge, but pulling the fridge out and cleaning up is the right thing to do.

That's why the Broader Public Sector Accountability Act is necessary. The act, if passed, will lead to higher accountability standards for hospitals and local health integration networks. The act will expand freedom-of-information legislation to cover hospitals, it will require hospitals and LHINs to post the expenses of senior executives online and it will require hospitals and LHINs to report annually on their use of consultants.

Each of these steps will contribute to greater transparency. They will bring sunlight to the delivery of vital health care services in the management of the hospitals in our health system, and they will help ensure that precious health dollars go to front-line care. Each of these steps will also ensure that Ontarians get more value out of their investments in public services. Together, with some hope, these steps will increase public confidence in our health care system.

Importantly, LHIN and hospital executives will also see reductions in pay if they fail to comply with the requirements under the act. Forcing executives to pay back taxpayers will increase accountability, and it's vital we make sure that that enforcement is in place, should this act be passed.

SEIU has two recommendations: The first is that the bill be passed and implemented in a timely fashion, and the second is that the bill be expanded so that freedom-of-information legislation also covers community care access centres. As it stands, if passed, the act will result in freedom-of-information legislation being applied to both hospitals and local health integration networks, two important pillars of the province's health care system. We're recommending extending that legislation so that it applies to that third important pillar of our hospital system, CCACs.

CCACs, as most of you probably know, were created in 1997, about 14 years ago, and there are now 14 of them across the province that manage local care. Just like the 14 LHINs and public hospitals, CCACs are funded by this Legislature and by the Ministry of Health and Long-Term Care. This public funding means that because of taxpayer dollars, CCAC advice and services are covered by OHIP.

The 14 local health integration networks are already under the FOI act; the current amendment is to include hospitals under the act. The next logical step is to include the 14 CCACs under the act, given their similar scale, their services, their public funding model and the need to strengthen accountability and enhance transparency in the selection of service providers in Ontario who deliver home care.

The transparency of CCACs might not sound like something that matters a great deal to voters in your constituencies, but in fact, we know from history that it does. Those of you with good memories will recall when, in 2007 in the city of Hamilton, hundreds, if not thousands of people took to the streets because of concern about the lack of transparency and the process by which the local CCAC awarded contracts to home care services, stripping away the funding for a long-standing not-for-profit agency that had been in that community for more than 80 years and awarding it to a for-profit US provider without adequate transparency or accountability in place, in the view of many members of the public who came out in force.

So that's why we're recommending that, in addition to LHINs and hospitals, CCACs be included. That would simply require amending the penultimate sentence of the legislation so that where it reads "hospitals," it would read: "hospitals and CCACs." Those are the only words that would need to be added to this bill.

Making hospitals and LHINs subject to freedom of information, but not CCACs, is a bit like pulling out your fridge and pulling out your dishwasher, but then ignoring the 14-year-old freezer that's been sitting in the corner for more than a decade. Pull it out. Clean it up. It's the right thing to do. Pretending it's not there and that there's nothing lurking behind it is a mistake and it will come back to haunt you.

I'll stop there.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Callan. Two minutes per side, starting with the government. Mr. Johnson?

Mr. Rick Johnson: Thank you for your presentation. I appreciate the depth that you've gone into on this. Bill 122 will require hospitals to report on their use of consultants. Do you think this will increase accountability in the health care system?

Mr. Eoin Callan: Yes, absolutely. The measures to require hospitals to report on their use of consultants, to post the expenses of CEOs and senior executives online and to punish non-compliance by giving boards the power to claw back, or have taxpayers be paid back, are important steps that will increase transparency and accountability.

Mr. Rick Johnson: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. PC caucus: Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much. Great presentation. I appreciate your recommendation that this be expanded to CCACs. In fact, I'll be putting forward an amendment to this bill that would not only do that, extend this legislation to CCACs, but also out of the broader public service, because right now it's really only limiting freedom of information to some elements in the health care field. I'm just wondering your opinion on that.

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Mr. Eoin Callan: As stated during the presentation, extending the freedom-of-information act so that in addition to applying to LHINs, as is currently the case, and in addition to applying to hospitals, which would be the case if the act was passed, it would also apply to CCACs and capture that third important pillar of our health care system in Ontario, and help to instill maximum public confidence that there is transparency and accountability in our health system. It's our view that we would all be well served and that the members of this committee and this Legislature and the democratic process would be well served by taking those steps to instill greater public confidence.

Ms. Lisa MacLeod: How would you feel about expanded Ombudsman oversight into the health care sector?

Mr. Eoin Callan: The Ombudsman has shown himself to be an enterprising watchdog and, in many instances, a diligent one. He has certainly brought additional transparency and a degree of accountability to several sectors of our government.

I think we can see from the Auditor General's report in October that there are significant issues around transparency, accountability and appropriate use of taxpayer funds. The Auditor General only looked at 16 hospitals and found that at least half of those were engaged in practices that required closer scrutiny around their use of consultants in particular. He didn't attempt to audit the rest of the system but has made recommendations which are being realized in the act before you.

It certainly—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. Madame Gélinas, le plancher est à vous.

M^me^ France Gélinas: Thank you for your presentation. It was very well done. I certainly support extending freedom of access to information to CCACs. I would bring it a step further and ask your opinion. There is an exemption right for long-term-care homes. Do you feel that not being able to access information via freedom of access to information of long-term-care homes is beneficial, or should they be included?

Mr. Eoin Callan: I guess in simple terms, we have significant risk of what investors would call an agency problem in the long-term-care sector. We have public dollars being flowed to for-profit operators, many of them US-based. Those for-profit operators run our long-term-care homes ostensibly in the interest of the residents, in the interest of taxpayers, but they also have a fiduciary duty to their boards and their investors to maximize shareholder return. That creates a situation that, based on the auditor's examination of the hospital sector and the LHINs, suggests that there would be additional benefits if we were to bring greater transparency and greater accountability—if we were to bring sunlight to the full extent of the operations of for-profit nursing home chains in Ontario.

M^me^ France Gélinas: Would your answer be similar for retirement homes?

Mr. Eoin Callan: Well, retirement homes, as I'm sure you're aware, are in the process of being regulated in this province. That process is not yet complete. We're looking to see the final regulations that will govern retirement homes in this province before making an assessment about whether there is adequate transparency and accountability.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Callan, for your deputation on behalf of Service Employees International Union.

OFFICE OF THE INTEGRITY COMMISSIONER OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward, an officer of the Legislature, as you'll know, from the Office of the Integrity Commissioner of Ontario: Lynn Morrison,

Integrity Commissioner, accompanied by legal counsel, Ms. Jepson. Welcome.

Just to review, you'll have 10 minutes in which to make your presentation and five minutes for questions afterward. We invite you to please begin now.

Ms. Lynn Morrison: Good afternoon, and thank you for giving me this opportunity to speak to you today on Bill 122, the Broader Public Sector Accountability Act. I'm happy to be here. Of course, I think you all may know Valerie, my legal counsel.

As you know, I am not only the Integrity Commissioner for the province of Ontario, but I am also the lobbyist registrar. My remarks today are made in my role as registrar, overseeing the registry, which has been in place since 1999.

The bill before you covers a number of different areas, but my remarks will be confined only to the sections relating to the lobbyists and the proposed changes to the Lobbyists Registration Act. In this, I have three main points I'd like to raise with you.

First, I want to let you know that my office is preparing for any changes that result from this legislation. It contains a new requirement for a letter of attestation from some lobbyists. We have reviewed our systems and our processes, and we will be ready as required.

Second, I would like to speak about lobbyists and the act. The Lobbyists Registration Act creates a registry to document and track lobbying activity undertaken in the province. The registry covers two types of lobbyists: consultants, and those who work in-house as employees of an organization. As the committee knows, it is the activity of consultants that is the subject of this bill.

It's important to realize that the organizations covered by Bill 122 will still be able to lobby government without hiring consultants. They will do it themselves and, of course, will be required to register when lobbying comprises a significant part of their duties, as defined in the Lobbyists Registration Act.

I have noticed that since Bill 122 was introduced, there is a growing concern about having a registration on the registry. I want to put it on the record that having a registration, as long as the activity is compliant with the law, is not a bad thing. It only provides transparency.

Lobbying is a legitimate activity. Elected officials and public servants benefit from the information provided by various types of organizations and entities. Lobbyists of all types, including consultant lobbyists, help these organizations to better understand how policy and laws are created, and how to ensure their information provides the maximum benefit and impact.

Finally, on my third point, I want to elaborate about my experience with the registry and how I believe it has helped shine a light on lobbying activity. My office works very hard to review each registration and assess the information provided. We frequently contact the registrants to ask for more details and, as registrar, I accept these only when I am satisfied that they are telling the full story of their lobbying activity.

The registry is user-friendly. It is public. It is accessible online. Not only can you find out who is lobbying whom, but you can also check the inactive list to get information on past activities. I encourage you to check it regularly, as it provides a wealth of information that I believe supports the goal of transparency in lobbyist dealings with the government.

In closing, I would be pleased to answer any of your questions and provide additional information about the registry and the Lobbyists Registration Act to any member of the assembly or their staff, should they wish it.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Morrison. We've got three minutes or so per side, beginning with Ms. Jones.

Ms. Sylvia Jones: I'm sorry I came halfway through your presentation. I did want to ask a question that was raised yesterday by a number of presenters. There was concern that the legislation, as it is written, does not have anything in it if a lobbyist is in non-compliance. Would you have any recommendations for the committee in how we could strengthen this legislation to ensure that those who weren't following the rules would be properly dealt with?

1730

Ms. Lynn Morrison: First of all, it's an offence under the Lobbyists Registration Act not to comply. It has provisions for fines of up to $25,000 for non-compliance, if convicted.

At this moment, my office has policies and procedures in place to deal with complaints. We've successfully relied on moral suasion to encourage individuals to register when necessary, and to ensure that they are complying.

But with all due respect, my job is to administer the act, and I think it's up to the members to decide what they need to ensure compliance.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Madame Gélinas.

M^me^ France Gélinas: I'm a little bit worried about some pictures that came to my mind as you were going through your presentation. Am I right in thinking that some lobbying activity will now not need to be reported, won't be on the registry, for the simple reason that the percentage of time spent on lobbying will be below the threshold?

Ms. Lynn Morrison: There are three types of lobbyists. The consultants have to register within 10 days of their first communication.

For in-house organizations—your not-for-profit organizations and associations—it's the accumulated activity of paid employees reaching a threshold of a significant part of their duties, which is 20%, which equates to about four days' lobbying per month.

For in-house persons and partnerships, your for-profit organizations—your pharmaceutical companies and similar for-profit organizations—each employee must spend 20% of their time, or four days a month, before they're required to register.

Having said that, I can tell you that there are a large number of organizations on the registry—I don't know for sure, but I don't expect that they're lobbying four

days a month, 12 months a year. I think a lot of them have registered out of an abundance of caution and for transparency purposes. The same applies for your for-profit companies.

M^me^ France Gélinas: So basically the system works, if they are coming forward—

Ms. Lynn Morrison: It has been, I think, yes.

M^me^ France Gélinas: Okay. I was curious when you said, "I accept these only once I'm satisfied that they are telling the full story of their lobbying activities". Have you ever not accepted somebody or delayed their acceptance, which meant they couldn't do their lobbying?

Ms. Lynn Morrison: No. At that point, if we receive a registration, whether it's an initial registration or a renewal, if the activity is not clear to me such that I think that the ordinary person on the street could get some sense of what the lobbying activity is about without revealing secrets or confidential information, then we will contact the lobbyist and ask for further information

M^me^ France Gélinas: I also take it from your presentation that you're not looking for word changes to the bill.

Ms. Lynn Morrison: Some minor changes. Maybe Valerie could speak to that.

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there, Madame Gélinas. To the government side, to Monsieur McMeekin.

Mr. Ted McMeekin: Ms. Morrison, I appreciate your perspective. I appreciate the good work you do as well, so I'll just put that on the record.

I get a sense from listening to you as you speak—I would appreciate your comments on this. I don't want to put words in your mouth, but it sounds to me, reading perhaps between the lines, that you might have some concerns about lobby chill here in terms of the impact of the legislation. You've talked about the registry, how well it works and the protections that are there. Are we using a cannon to shoot a mouse here? What's your sense on that?

Ms. Lynn Morrison: I have some concerns that that may be happening. I have no proof. I obviously observe the registry on a daily basis and I look at every registration. I see terminations. I think it's due to a misunderstanding of what the legislation really says, that a lot of people do not understand that in-house lobbyists are employees of organizations that are entitled to lobby. It's a legitimate activity. They need to contribute information. I'm seeing some terminations that concern me. Whether it's due to this bill or not, I don't know.

Mr. Ted McMeekin: Okay. Thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McMeekin.

And thanks to Ms. Morrison and to your legal counsel, Ms. Jepson, for your deputation on behalf of your Office of the Integrity Commissioner of Ontario.

If there is no further business for this committee, I'd just remind committee members that amendments are due solidly by Friday, November 26, at 12 noon. As it's through the House, there will be no extensions, no late amendments.

Is there any further business before this committee? Committee adjourned.

The committee adjourned at 1736.

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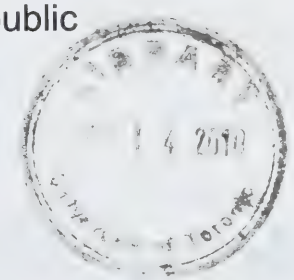

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STANDING COMMITTEE ON SOCIAL POLICY

Monday 29 November 2010

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 29 novembre 2010

The committee met at 1406 in committee room 1.

BROADER PUBLIC SECTOR ACCOUNTABILITY ACT, 2010
LOI DE 2010 SUR LA RESPONSABILISATION DU SECTEUR PARAPUBLIC

Consideration of Bill 122, An Act to increase the financial accountability of organizations in the broader public sector / Projet de loi 122, Loi visant à accroître la responsabilisation financière des organismes du secteur parapublic.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. Welcome to clause-by-clause consideration of Bill 122. As you know, it's a government motion to amend the lobbyist act.

I'd now invite Madame Gélinas, après votre verre d'eau—unless there are any comments of a general nature before beginning clause-by-clause. If not, I'll invite Madame Gélinas to present NDP motion 1.

M^me^ France Gélinas: Thank you, Mr. Chair. I like your punctuality.

The Chair (Mr. Shafiq Qaadri): As do we yours.

M^me^ France Gélinas: I move that the definition of "designated broader public sector organization" in subsection 1(1) of the bill be amended by adding the following clauses:

"(a.1) every local health integration network,

"(a.2) every board of health under the Health Protection and Promotion Act,

"(a.3) every community care access corporation,

"(a.4) every home-care agency, whether or not operated for profit,

"(a.5) every long-term-care facility, whether or not operated for profit,"

Basically, what we're trying to do here is to broaden the list of agencies that would be covered by this bill. That starts by adding those five types of health care providers and health care organizations as designated broader public sector organizations.

You will see through this afternoon that most of the motions we bring forward are to make this bill as broad as possible. We have to remember that some of the issues that have precipitated this bill—that is, the work that the Auditor General has done on the use of consultants—certainly are a strong motivator for this bill. What he has uncovered is not solely happening in local health integration networks and hospitals. It happens in many other transfer payment agencies of the Ministry of Health. It happens in many other areas of the health care system. So we are trying to do that.

Le Président (M. Shafiq Qaadri): Merci, madame Gélinas, pour votre motion.

Do we have some questions or comments before the vote? Monsieur McNeely.

Mr. Phil McNeely: The LHINs are already subject to existing procurement, public disclosure and other rules. As well, community care access centres are already listed as a designated broader public sector organization. The other items in this motion would shift the bill away from the intent, which is to increase the accountability and transparency over broader public sector organizations whose primary relationship is with the provincial government. For that reason, we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Further comments, rebuttals, cross-examinations?

M^me^ France Gélinas: Sorry, could you repeat the last part? How do you see this as decreasing transparency? The last part, there.

Mr. Phil McNeely: Just to extend, the boards of health are municipal boards, and they're only partly funded by the province. Municipal governments are mature orders of government that have substantial revenue streams that are not derived from the provincial government, such as property taxes. They are accountable to their residents for their operations, which we expect to be open and transparent.

Home care agencies do not receive direct funding from the government. The long-term-care sector is a mix of profit and not-for-profit charitable and municipal homes. Long-term-care homes are accountable through long-term-care service accountability agreements with the local health integration networks. They receive funding envelopes targeted to care programs and accommodation. They are also subject to audited financial statements and recovery of unspent funding by the ministry.

M^me^ France Gélinas: But they're also completely opaque. You can't get any information on any long-term-care homes or homes as a whole. If you look at what this bill is trying to do by bringing transparency, it's trying to look at system issues. If you have a home that has system issues when it comes to quality, it is impossible. They're not covered by the Ombudsman; they're not covered by

freedom of access to information. There is no way people can have accountability from those organizations or transparency, which you just said doesn't go in the sense that the bill is trying to go.

Mr. Phil McNeely: I have no other comments, Chair.

The Chair (Mr. Shafiq Qaadri): Any comments, questions? Ms. Jones.

Ms. Sylvia Jones: Yes, I think it's an excellent addition to what we're trying to bring forward with Bill 122, and I support it.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote. Those in favour of NDP motion 1? Those opposed? NDP motion 1 is defeated.

PC motion 2: Ms. MacLeod.

Ms. Lisa MacLeod: I move that the definition of "publicly funded organization" in subsection 1(1) of the bill be amended by striking out "but does not include" and clauses (a) to (j).

The Chair (Mr. Shafiq Qaadri): Are there any comments?

Mr. Phil McNeely: This motion would be redundant as ministries and agencies of the government are already subject to procurement rules. The motion would also make the Office of the Lieutenant Governor and the Office of the Assembly subject to the act. It is customary to consult with these offices in advance of legislation, and we respect that custom.

The other item is this motion would shift the bill away from the intent, which is to increase accountability and transparency of our broader public sector organizations whose primary relationship is with the provincial government. For that reason, we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^me^ France Gélinas: I still don't understand. Why are we trying to exempt those organizations? If we really want to tell the public, "We have learned from the Auditor General, we have learned from the headlines about the use of lobbyists, and we want our health care dollars to go to the provision of care," then why this list of excluded agencies?

Mr. Phil McNeely: No further comment, Chair.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of PC motion 2? Those opposed? PC motion 2 is defeated.

Madame Gélinas, NDP motion 3.

M^me^ France Gélinas: I move that the definition of "publicly funded organization" in subsection 1(1) of the bill be amended by striking out clauses (g), (h) and (i).

Basically, we're removing the board of health, for-profit organizations and long-term-care homes from the list of the excluded organizations in the definition of publicly funded organizations.

If you look at what a board of health does, it gets significant funding from the Ministry of Health. It's the same thing with long-term-care homes. Long-term-care homes wouldn't exist if it wasn't for Ministry of Health funding; they would be retirement homes. You become a long-term-care home once you start receiving money—first of all, you get a licence, then you receive money—from the Ministry of Health. Those are agencies that are within the control of the government. They receive, I think to this point, close to $3 billion a year worth of Ministry of Health money, and yet you're completely excluding them from transparency, from accountability, from FOI, from everything else that would finally give the public a look and a say into how billions of dollars of health care are being spent.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. McNeely.

Mr. Phil McNeely: This motion would shift the bill away from the intent, which is to increase accountability and transparency over broader public sector organizations whose primary relationship is with the provincial government. For that reason, we cannot support this motion.

As we said before, the long-term-care sector is made up of a mix of not-for-profit, for-profit, charitable and municipal homes, and we will be opposing this motion.

The Chair (Mr. Shafiq Qaadri): Yes, Ms. Gélinas.

M^me^ France Gélinas: I still don't understand. In your opening comments, you say that it doesn't go towards transparency. How can making agencies and long-term-care homes FOI-able not support transparency and accountability? It does. This is what the bill is all about.

Mr. Phil McNeely: No further comments.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of NDP motion 3? Those opposed? NDP motion 3 is defeated.

PC motion 4: Ms. MacLeod.

Ms. Lisa MacLeod: I move that the definition of "publicly funded organization" in subsection 1(1) of the bill be amended by striking out clause (g).

I believe that this is probably out of order, given the previous motion.

M^me^ France Gélinas: No, because mine was broader than yours.

Ms. Lisa MacLeod: Oh, broader? Okay.

The Chair (Mr. Shafiq Qaadri): You are fully in order, Ms. MacLeod.

Ms. Lisa MacLeod: Oh, thank you. I love hearing that from the Chair.

The Chair (Mr. Shafiq Qaadri): We commend you.

Ms. Lisa MacLeod: I just don't hear that enough.

The Chair (Mr. Shafiq Qaadri): I will endeavour to repeat it.

Ms. Lisa MacLeod: Can you talk to the Speaker on my behalf from time to time?

The Chair (Mr. Shafiq Qaadri): On occasion I will, yes.

Are there any comments either for or against PC motion 4? Seeing none—yes, Madame Gélinas.

M^me^ France Gélinas: Well, I would say, look at the work that the boards of health are doing. Ontario lives in a post-SARS era. They are responsible for a lot of communicating about diseases; they are responsible for implementing, on the ground, a lot of the work that the agency for health promotion and prevention has put forward; and they receive billions of dollars of Ministry

of Health funding. To exclude them from transparency makes no sense.

Our partners at the municipal level have no problem making their end transparent, but they can't. As long as the government of Ontario won't allow those agencies to be FOI-able, the municipal councillors can have the best intentions in the world, but if they're not included in Bill 122, they're not going to be able to move forward.

To say that you are holding it back because they receive part of their funding from the different municipalities flies in the face of what we're trying to do. The municipalities are not opposed to having the board of health FOI-able; you are.

The Chair (Mr. Shafiq Qaadri): Comments, Mr. McNeely?

Mr. Phil McNeely: The boards of health are municipal boards and only partially funded by the province. Municipal governments are mature orders of government that have substantial revenue streams that are not derived from the provincial government, such as property taxes. They are accountable to their residents for their operations, which we expect to be open and transparent.

M^me^ France Gélinas: He's right. The municipalities want them to be transparent, but they cannot be because we're not giving them the permission to. Here is your chance.

Mr. Phil McNeely: Just an added comment that the boards of health are already under the FOI legislation.

M^me^ France Gélinas: They are not under the rest of the requirements of Bill 122.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote, then. Those in favour of PC motion 4? Those opposed? PC motion 4 is defeated.

Government motion 5: Mr. McNeely.

Mr. Phil McNeely: I move that section 1 of the bill be amended by adding the following subsection:

"Solicitor-client privilege preserved

"(3) Nothing in this act shall operate so as to require the disclosure of information that is subject to solicitor-client privilege, litigation privilege or settlement privilege."

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This was requested by the Ontario Bar Association and the Law Society of Upper Canada. It clarifies that nothing under the act will require a broader public sector organization to disclose privileged information in any of their reports. Client-solicitor privilege is a charter right, so we respect the charter rights and freedoms.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^me^ France Gélinas: Maybe I'll direct this to our legal counsel. Those are charter rights. Aren't they already protected by the Charter of Rights?

Mr. Ralph Armstrong: Well, yes. On the other hand, you can never be too safe to ensure that your legislation is not subject to being read in an anti-charter way and to show your intended compliance with all requirements under the charter, rather than embarking on the road of litigation to determine these matters.

M^me^ France Gélinas: Okay. So, if I understand what you're saying, it's that those provisions for exclusion already exist. We're repeating them.

Mr. Ralph Armstrong: How this might be interpreted in the absence of this provision would be a matter for the courts. Everyone advising any client, including the government, always hopes to keep things out of the courts by making clear statements in their documents.

M^me^ France Gélinas: Thank you.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on government motion 5 before we vote? Seeing none, we'll proceed, then.

Those in favour of government motion 5? Those opposed? Government motion 5 is carried.

Shall section 1, as amended, carry? Carried.

We'll proceed now to section 2. PC motion 6: Ms. MacLeod.

Ms. Lisa MacLeod: I move that subsection 2(1) of the bill be struck out.

The Chair (Mr. Shafiq Qaadri): Are there any issues, comments people would like to offer?

Mr. Phil McNeely: We can't support this motion because the existing section reflects standard language to allow the government the flexibility to exclude organizations that may experience undue burden from the impact of the new procurement directives which the government did not intend when developing the legislation. It's to protect those small groups.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^me^ France Gélinas: Isn't this, when the government does due diligence in putting forward legislation, they make sure that those don't happen? Then, after second reading, we have the opportunity for consultations with the community, and those are also picked up. If you were thorough in really not wanting to add a burden to organizations, then you take your time and you draft good bills. You don't time-allocate them. Then you take your time and allow all of the public consultation necessary, including—we had said that we should have gone to Ottawa to listen to what the people there had learned and were willing to share with us. You turned that down. To me, you didn't take your time to put this legislation out. You time-allocated it. Then you limited the public consultation.

This is a way for the PC caucus to really make sure that you don't add other exemptions to this act after it has left this place.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. David Zimmer: No comments, Chair.

Mr. Phil McNeely: No comments.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of PC motion 6? Those opposed? PC motion 6, defeated.

Shall section 2 carry? Carried.

We'll proceed: Shall section 3 carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): Is that a formal "no"? Because then we have to vote.

Ms. Lisa MacLeod: Yes, a formal "no."

The Chair (Mr. Shafiq Qaadri): Fair enough. We'll proceed to section 3. Those in favour of section 3 carrying?

Interjections: Carried.

Ms. Lisa MacLeod: Not carried.

The Chair (Mr. Shafiq Qaadri): Not carried—all right.

Section 3 is carried.

Section 4: NDP motions 7A and 7B. That's one motion, right?

M^me^ France Gélinas: It's one?

The Chair (Mr. Shafiq Qaadri): Yes.

M^me^ France Gélinas: Okay, thank you. This has to do with section 4 of the bill.

I move that subsections 4(1) to (4) of the bill be struck out and the following substituted:

"No publicly funded lobbyists

"4.(1) No organization to which this section applies shall engage a lobbyist to provide lobbyist services.

"Application

"(2) This section applies to,

"(a) every agency of the government of Ontario;

"(b) every broader public sector organization;

"(c) Hydro One Inc. and each of its subsidiaries;

"(d) Ontario Power Generation Inc. and each of its subsidiaries;

"(e) Ontario Power Authority;

"(f) Independent Electricity System Operator; and

"(g) every organization that is provided for in regulations made under subsection (5).

"Transitional

"(3) Where, immediately before this section applied to an organization, there was an agreement in place that provided for the payment of money by the organization for lobbyist services, the agreement is deemed to contain the following provisions:

"1. The lobbyist services are terminated on the earlier of the date that is 30 days after this section applies to the organization and the date that they would have otherwise been terminated under the agreement, despite any notice provisions required under the agreement.

"2. The lobbyist may only charge, and shall only be paid for, lobbyist services provided to the organization under the agreement up to the date provided for in paragraph 1.

"3. Unless inconsistent with paragraphs 1 and 2, all other terms and conditions related to the lobbyist services terminated in accordance with paragraph 1 that would otherwise survive the term of the agreement shall continue to apply to those services.

"No circumvention of prohibition on engaging lobbyists

"(4) No organization to which this section applies shall provide funds to any person or entity for the purpose of that person or entity engaging a lobbyist to provide lobbyist services to the organization."

Basically, when the public heard of hospitals using lobbyists to lobby the government for more money, they were, let's just say, really unhappy—I'm trying to be politically correct. They didn't care where the money came from; they were just appalled that a transfer payment of a ministry—that a hospital would hire lobbyists to lobby their own government. It makes no sense.

The minister stood in the House time after time and said that they won't be allowed to use your money, and if they call, we won't return their call. If you are serious that you do not want hospitals to hire lobbyists, then you have to simply pass this amendment.

What we have right now is a system where, we will say, at a high number, close to 10%—and it's higher than this—of the money that the hospitals have has nothing to do with the government. So if you look at all 155 hospitals, we're talking about $3 billion that does not come from the government, $3 billion that the hospitals can continue to hire lobbyists and continue the practice that has motivated the government to put this bill forward.

With this bill, you're kind of pointing them in the right direction, but you don't go all the way to your objective. If the objective is that they call and you don't return the call, then put it in the bill. Don't limit yourself. Otherwise, you're leaving $3 billion on the table.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Phil McNeely: That the bill will prevent the lobbyists from using government money to lobby government is the right direction to go, but this motion would prohibit an organization from using funds not received from government to hire a lobbyist, as you say.

The bill has been carefully drafted to align with the Charter of Rights and Freedoms. The advice we've received is that this prohibition would contravene the right to freedom of expression under the charter. We respect the Charter of Rights and Freedoms and will not support this motion.

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The Chair (Mr. Shafiq Qaadri): Thank you. If there's any further comment—Madame Gélinas?

M^me^ France Gélinas: We received legal counsel before we put those amendments forward, and I guess I will direct my questions to our legal counsel. Our legal counsel agreed that this is an amendment that could be done to Bill 122, and the member opposite is saying that this amendment would be non-receivable because of another bill that I forget the name of now. What's your opinion?

Mr. Ralph Armstrong: I do not purport to be a constitutional lawyer. In drafting motions, I act on instructions from clients. Since the member is asking my opinion, my opinion would be in accordance with what the parliamentary assistant has said: that purporting to dictate to these organizations what they could do with money that is not provided by the government in terms of exercising rights of opinion would probably be declared unconstitutional. I say that as my own opinion, based on what I know and for what it is worth. The courts, of course, are the arbiters of these matters.

M^me^ France Gélinas: I say that the public outrage was such that we have to bring language—you cannot leave $3 billion on the table. This defeats the entire pur-

pose of the law. If you are serious that you're not going to pick up the phone, you're not going to return those phone calls, then you have to give the law the full intent of what your objective is, and that's to say no more lobbying by transfer payment agencies of the Ministry of Health.

Mr. Phil McNeely: Chair, can I ask the solicitor to come up to the table to present his information?

The Chair (Mr. Shafiq Qaadri): Sure, please. Welcome, and just please identify yourself as you're making your remarks.

Mr. Don Fawcett: Sure. My name is Don Fawcett. I'm a lawyer with the Ministry of the Attorney General, employed in the legal services branch of the Ministry of Government Services. I've been working with the Ministry of Health on this bill. You've asked me to come up—I'm sorry, I was just distracted for a moment in terms of the question you wish to ask me.

Mr. Phil McNeely: We had the comments that we had made that the advice we've received is that this prohibition as proposed by the NDP would contravene the right to freedom of expression under the charter. That's why we are opposed to this motion. I think we had concurrence from the solicitor—

Mr. Don Fawcett: Okay. In my role as counsel in the ministry, of course, I provide legal advice to the ministry. I will comment on legislative counsel's point. When we were drafting the bill, we did have consideration of section 2(b) of the charter, which is freedom of expression, and considered that in the drafting of the bill. In our view, the drafting, as you see it there, strikes the appropriate balance between protecting organizations' right to freedom of expression and the need to make organizations accountable for spending public funds. So it's a question of striking that balance between the Charter of Rights and the purpose of this bill, which is to regulate how organizations are spending public funds.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments?

M^me^ France Gélinas: So let me get this right: We are afraid that the hospital is going to sue the government, under the freedom of expression, to let them hire lobbyists to lobby the government?

Mr. Don Fawcett: I can't answer that question. I can say—

M^me^ France Gélinas: Isn't this what you just told us?

Mr. Don Fawcett: In terms of when we were considering drafting it, we wished to do so consistent with the charter. So the question of whether we will be sued or a hospital will take issue with that in court, I guess is a second concern in terms of getting it right in the first place, to make sure it's consistent with the charter.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there any further contributions on this issue? Seeing none, we'll proceed to the vote.

Those in favour of NDP motion 7? Those opposed? Motion 7 is defeated.

Government motion 8.

Mr. Phil McNeely: I move that clauses (a) and (b) of subsection 4(1) of the bill be struck out and the following substituted:

"(a) in the case of an organization referred to in clause (2)(b), from public funds; or

"(b) in the case of an organization referred to in clause (2)(a), (c), (d), (e), (f) or (g),

"(i) from public funds, or

"(ii) from revenues generated by the organization."

The Chair (Mr. Shafiq Qaadri): Thank you.

Mr. Phil McNeely: If I could speak to that, Chair, this is a technical amendment. It clarifies that an organization that generates revenues cannot use those revenues and any public funds it receives to hire an external lobbyist.

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Sylvia Jones: Just one. But it still would allow foundation money, donation money, to be used to hire lobbyists. Correct?

Mr. Khalil Ramal: Not necessarily.

Mr. Phil McNeely: What it means is that an organization that generates revenues in addition to government funds cannot use those revenues and any public funds it receives to hire an external lobbyist.

Ms. Sylvia Jones: Right. So in the case of hospital foundations, donated dollars could still be used for hiring consultants and lobbyists. Correct?

Mr. Khalil Ramal: Could I, Mr. Chair?

Mr. Phil McNeely: I would ask the solicitor to come up again to look at that.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal, you have some comments?

Mr. Phil McNeely: It's subsection 4(1) of the bill.

Mr. Khalil Ramal: I want to comment about the question. As you know, most of the hospitals across the province of Ontario have two sources of revenue. One is from the government, which they are banned from using to hire any lobbyists, and the other money comes from fundraising, which they have free movement to use wherever they think fit for their organization. That's my answer.

The Chair (Mr. Shafiq Qaadri): Thank you. The question continues before the floor. Do you need it restated?

Mr. Don Fawcett: Yes, that would be helpful, thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Jones, I invite you to restate your question.

Ms. Sylvia Jones: Third time lucky.

The Chair (Mr. Shafiq Qaadri): Possibly.

Ms. Sylvia Jones: Donation dollars collected by hospital foundations, as an example, would still be able to be used to hire lobbyists and consultants. Correct?

Mr. Don Fawcett: If I may comment on the intention of this section initially, and then, with respect, I'll answer that question.

What we're intending to capture with this provision is that certain of these organizations—for example, a government agency—may generate revenues, and so it's

intended to also put the prohibition on using those revenues, in addition to any public funds they receive.

Ms. Sylvia Jones: I understand—like parking revenues. I get that. What I'm asking is, this still allows donated dollars collected by—I'm using the example of hospital foundations. They can continue to use those donated dollars to hire lobbyists or consultants.

Mr. Don Fawcett: Under the act, an organization can't use public funds, and that's defined. It's essentially any funds that are transferred to the organization from the government. So in that respect, if the funds are not public funds, as defined, then the prohibition won't apply to those funds.

Ms. Sylvia Jones: So the answer is, "Correct."

Mr. Khalil Ramal: Well, I mean, Mr. Chair, it's not fair—

The Chair (Mr. Shafiq Qaadri): You're welcome to make your comments, but I think the question is perfectly phrased and fair and legitimate.

I would invite now Mr. Armstrong, the legislative counsel, to weigh in, and if we need to bounce it back a couple of times, that's fine.

Mr. Khalil Ramal: Mr. Chair, do you mind if—

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Ramal.

Mr. Khalil Ramal: Actually, we don't have to put the ministry staff in that spot. It's clear to everyone across the province of Ontario and to my friend on the opposite side that hospitals across the province of Ontario generate two different funds. One comes strictly from the taxpayers, which is the government, and the other revenue comes from fundraising or parking or the cafeteria or whatever. I think they're allowed to use that fund any way and every way they think is fit to support their organizations. I think that's the answer from this side.

The Chair (Mr. Shafiq Qaadri): I thank you for your contribution, Mr. Ramal.

Mr. Armstrong?

Mr. Ralph Armstrong: The hospital would still be able to use foundation money not from public sources for consultant lobbyist purposes, yes.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Armstrong. Are there any further comments from any source? Madame Gélinas.

M^me^ France Gélinas: From what we had before to what we have now in the list, are there more or less organizations that are covered in that section?

Mr. Don Fawcett: In our view, the net effect of this is not to increase or decrease the number of organizations covered. It's the same organizations, in practice. We're just clarifying that for those organizations listed in (b), it's two sources of revenues that they can't use to hire an external lobbyist: whatever public funds they might receive through a transfer payment; in addition to that, any revenues that they're generating.

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M^me^ France Gélinas: And revenue-generating would be?

Mr. Don Fawcett: If an organization to which this section applies is out in the marketplace selling goods or services, for example, those may well be revenues that would be caught by this.

M^me^ France Gélinas: Okay.

The Chair (Mr. Shafiq Qaadri): We will then immediately proceed to the vote unless there are further comments of any kind. If not, those in favour of government motion 8? Those opposed? Government motion 8 carries.

Government motion 9.

Mr. Phil McNeely: I move that section 4 of the bill be amended by adding the following subsection:

"Saving, association fees

"(4.1) Subsection (4) does not operate in respect of membership fees paid by an organization to which this section applies, to be a member of an association that is established to represent the interests of a group or class of similar organizations."

The Chair (Mr. Shafiq Qaadri): Comments? If none, we'll proceed to the vote. Those in favour of government motion 9? Those opposed? Motion 9 carries.

Shall section 4, as amended, carry? Carried.

We'll proceed then, to section 5, NDP motion 10. Madame Gélinas.

M^me^ France Gélinas: I move that subsection 5(1) of the bill be amended by adding "and provide a copy of the report to the Minister of Health and Long-Term Care, which shall be tabled in the Legislature and posted publicly on the Ministry of Health and Long-Term Care website" at the end.

Basically, in the bill, the LHINs have to make report on their use of consultants, but the bill doesn't tell us who those reports will be tabled with, who they will be made to, how accessible they will be. It would be nice, in view of accountability and transparency, if we said it upfront that at the minimum, those reports are made to the ministry, are tabled in the Legislature and are available on a website.

To ask the LHINs to make reports but then to not make those reports available, we're back to the same point we are at now, and certainly not in the spirit of the Auditor General's recommendation on transparency and accountability and also not doing what the public of Ontario expects. If a report on the use of consultants is not available publicly, then we might as well not have a report.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Phil McNeely: The bill responds directly to and fulfills the recommendation of the Auditor General's report with respect to reporting on the use of consultants. We believe providing the minister with the power to issue directives on how the reports are to be produced and distributed is appropriate. We cannot support this motion.

Ms. Lisa MacLeod: I just have a question.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: I have no idea why the parliamentary assistant would not want to extend this, given what the auditor found, what the Ombudsman has found, what the public outcry has been. I think this is a more

than reasonable motion, and we will be putting forward two similar amendments later.

The official opposition will support this motion. We would encourage the government to think outside the box on this one and not just react, but do something that I believe would be much better for the taxpayers of this province and support the NDP on this motion.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^me^ France Gélinas: If you read the report of the Auditor General in its entirety, it is clear that the reporting that the auditor is recommending is public reporting. To make it so that LHINs will submit the consultant reports and nobody will have access to them is not what the auditor had recommended and had in mind and not what the auditor speaks about in his report. What good comes of a report that nobody sees?

Ms. Lisa MacLeod: Exactly. I think she makes an excellent point. Further to that, we had a number of deputants who have actually called for this. I think that if the government doesn't support this motion, it's clear that they're not listening to the people who came to committee to talk to us about the challenges of this bill.

Let's be quite clear about something: This bill, as my colleague mentioned earlier, was a knee-jerk reaction. It was rushed through the House; it is now being rushed through committee. Many of the deputants indicated that they hadn't been consulted prior to this. Now we've done that through this committee last week. They're telling us that we need to look in greater detail at what the LHINs are doing and that that information should be made publicly available. I'd like to be on the record as such, and I know my colleague from Dufferin–Caledon concurs.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 10? Seeing none, we'll proceed to the vote.

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 10 falls.

PC motion 11.

Ms. Lisa MacLeod: I move that subsection 5(1) of the bill be amended by adding "and shall ensure the reports are made publicly available" at the end.

Obviously we put this motion forward because it was requested by a number of stakeholders who will be affected and impacted by this legislation. In the official opposition, we feel it's important that the local health integration networks be transparent and accountable. Therefore, we also think that the Minister of Health and her bureaucracy should do so as well. This is why we put this forward. We appreciate support.

The Chair (Mr. Shafiq Qaadri): Comments on PC motion 11?

M^me^ France Gélinas: When the auditor tabled his report, and we got a glimpse as to the use of consultants within the hospitals and within the LHINs, everybody was horrified by what they saw. The hospital association actually issued a public apology. We all agree that it shouldn't happen.

The LHINs already knew how much they were spending, but they were not making that information public. Now you're saying that they will do a report, and that report won't be public. We haven't moved. We're exactly where we were at before. The LHINs know how much they're spending on consultants. They were not making that information public. When the auditor did, people were horrified. The ministry acted and said, "We will bring accountability. We will bring transparency." But if all we do is ask them to do a report that nobody has access to, we haven't done anything.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Phil McNeely: The bill responds directly and fulfills the recommendation of the Auditor General's report with respect to reporting the use of consultants. We believe providing the minister with the power to issue directives on how the reports are to be produced and distributed is appropriate. We cannot support this motion.

I would ask, maybe, the solicitor to come up. You're saying these reports will not be available. Would you comment on that?

Ms. Lisa MacLeod: How does he know? I guess the problem that I've got with this is that the government says it's a direct reaction. It could be a reaction; it doesn't mean they've gotten it right. That's the whole problem with this bill. It's the whole problem with the process we're moving forward.

All we're asking in the official opposition, and I believe my colleague from the NDP is asking it as well, is for them to disclose this information, to make it public and easily accessible. If the government doesn't want people to find out what's going on, that's their prerogative. However, they should just say it. If they're going to issue directives, and these reports are going to be prepared and approved, they should be made available to the public. That's simply all we're asking.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. Please?

Mr. Don Fawcett: I'll just ask the member if he could repeat the question to me to make sure I answer the question you want.

Mr. Phil McNeely: I think what you've heard from the two opposition parties is that giving minister power to issue directives on how the reports are to be produced and distributed is not transparency. I would like you to explain how this means that the reports are available.

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Mr. Don Fawcett: Subject to what will be actually set out in the directive issued by the minister in respect of

LHINs, of course any record that they are preparing and producing is ultimately subject to the Freedom of Information and Protection of Privacy Act. Those LHINs are in fact subject to FIPPA. Certainly it's open to anyone to make an FOI request to access those reports.

Now, it remains to be seen what will—

Ms. Lisa MacLeod: Okay, but here's the thing: That's all well and good. So it's open to freedom of information. That's all well and good. My party put forward several freedom-of-information requests to the tune of $4,000, $8,000, $9,000. Are you basically trying to tell the public that they should pay for this information? If that LHIN report is available, why can't it be made public?

You're telling me that my constituents or members of our staff or other members of the public should pay for this information when it could easily just be posted on a website, the minister's own website or the local health integration network's website. That could be done very easily, very quickly, without any cost to anybody.

Mr. Don Fawcett: Maybe I'll direct the question over to the members, but yes, there is a cost associated with making an FOI request.

Ms. Lisa MacLeod: This is just more cover-up; that's basically why they're asking this question. We just want to let the sunshine in and let the information get out there if people want to see it. But the fact that the government doesn't want to disclose these potentially embarrassing reports in the future, I don't think we need legal opinions on that. I think that just speaks to the way things have always been and the way they want them to continue.

The Chair (Mr. Shafiq Qaadri): Are there further comments? If not, we'll proceed to the vote.

Those in favour of PC motion 11? Those opposed? PC motion 11 is defeated.

PC motion 12: Ms. Jones.

Ms. Sylvia Jones: I move that subsection 5(1) of the bill be amended by adding "and provide a report to the Minister of Health and Long-Term Care, which shall be tabled in the Legislature and posted publicly on the ministry's website" at the end.

Again, this is just a reinforcement of the transparency that we're trying to ensure with the amendments that we're bringing forward with Bill 122.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on PC motion 12?

Ms. Lisa MacLeod: Great motion.

The Chair (Mr. Shafiq Qaadri): If there are none—

M^me^ France Gélinas: Yes.

Le Président (M Shafiq Qaadri): Yes, Madame Gélinas. Excusez-moi. Le plancher est à vous.

M^me^ France Gélinas: Merci. Pensez-vous, si je leur demande en français, que je vais aller plus loin que quand je leur demande en anglais? Parce qu'à date, je ne suis pas allée très loin.

Le Président (M Shafiq Qaadri): C'est votre choix.

M^me^ France Gélinas: Mon choix? OK.

This is a significant issue my colleague has raised. If a report is prepared and is no more accessible and available than it was before, then we haven't listened to the people of Ontario. The people of Ontario told us that they were disgusted, that they were appalled and that they were saddened by what had happened to their health care dollar, that it went off to exotic trips and to wine and dine on the public dime. Now you're saying, "Well, we'll ask them to prepare reports, but those reports won't be available, or maybe they will be, but you will have to pay to make them available." That's not what the public asked for.

All this motion is saying is that you will now mandate those agencies to prepare a report. Once we have this report, let people see it.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 12? Seeing none, we'll proceed to the vote.

Those in favour of PC motion 12?

Ms. Lisa MacLeod: Could this be recorded, please?

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 12 falls.

NDP motion 13.

M^me^ France Gélinas: I move that subsections 5(2) and (3) of the bill be struck out and the following substituted:

"Regulations

"(2) The Minister of Health and Long-Term Care may make regulations respecting the reports, including regulations with respect to,

"(a) the information that shall be included in reports made under subsection (1);

"(b) to whom the reports shall be submitted; and

"(c) the form, manner and timing of the reports.

"Compliance

"(3) Every local health integration network shall comply with the regulations."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments?

M^me^ France Gélinas: Basically, what we are saying here is that we've listened to what the people have told us. After people found out how much money was being spent on consultants, the ministry put forward a bill that said that they will report. All that we're saying is, let's make sure that we know what kind of information they will have to report on. To ask simply for the agency to make a report could be left to interpretation, where the goal that we have for accountability and transparency won't be achieved. So all this amendment is doing is making sure that the report will at least include what I've just read into the record.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments?

Ms. Lisa MacLeod: He can go first.

The Chair (Mr. Shafiq Qaadri): Mr. McNeely?

Mr. Phil McNeely: There's no legal difference between a regulation and a directive, especially because under the bill, organizations subject to directives are required to comply with directives. A directive made under the bill must also be made public. Directives allow more flexibility in adapting to changing circumstances to ensure accountability and transparency. We cannot support this NDP motion.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: We're supporting this because we actually have the same motion in here, which will be ruled out of order, I believe. But I think this is in keeping with what our stakeholders had been asking for during the limited time that this bill was in the public domain for discussion, particularly in front of this committee. So we'll be supporting my colleague in the third party. I think it's a reasonable request.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 13? If there are none, we'll proceed to the vote. Those in favour of NDP motion 13? Those opposed? NDP motion 13 falls.

PC motion 14. Ms. MacLeod, as you have rightly noted, it is a duplicate and is out of order, so may I assume that you'll be withdrawing that?

Ms. Lisa MacLeod: That hurts, but withdrawn.

The Chair (Mr. Shafiq Qaadri): I appreciate the trauma, but I thank you for withdrawing it.

NDP motion 15.

M^me^ France Gélinas: I move that clause 5(2)(c) of the bill be struck out and the following substituted:

"(c) the form, manner, timing and public posting of the reports."

Here again, it goes in the way of wanting more accountability. If you ask the LHINs to prepare a report, you have to make those reports accessible. You have to let the people have access to those.

The public has already spoken. It's spoken loud enough to move the government into action. Let's not stop short of giving something that is meaningful, because a report that is not accessible is not a meaningful act on our part.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments on NDP motion 15? Ms. MacLeod this time.

Ms. Lisa MacLeod: Please, I'll allow him to go.

The Chair (Mr. Shafiq Qaadri): All right. Mr. McNeely.

Mr. Phil McNeely: The bill responds directly to and fulfills the recommendations in the Auditor General's report with respect to reporting on the use of consultants. We believe that providing the minister with the power to issue directives on how the reports are to be produced and distributed is appropriate, so we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: I'll be supporting this motion, as will my colleague in the official opposition, given we have the exact same motion that will likely be ruled out of order. I think this speaks again to the public record and the public nature of this document and its importance to be transparent to the public, given what has occurred.

We'll be supporting this. Again, I think it speaks to the reality that we are now in, where the public expects to see these reports without having to go through freedom-of-information requests. So we support it and we hope it passes.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 15? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 15?

Ms. Lisa MacLeod: A recorded vote, please.

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Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 15 falls.

Ms. MacLeod, as you have once again rightly noted, PC motion 16 is out of order. May I assume you withdraw it?

Ms. Lisa MacLeod: Thanks very much.

I move that subsection 6(1) of the bill be amended by adding "and contracting out" after "use of consultants".

I believe—

The Clerk of the Committee (Ms. Susan Sourial): You have to withdraw the previous one.

Ms. Lisa MacLeod: I withdraw the previous one first, and then I've made this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll then proceed.

Shall section 5 carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): Vote?

Ms. Lisa MacLeod: Yes.

The Chair (Mr. Shafiq Qaadri): We'll vote.

Those in favour of section 5 carrying? Those opposed? Carried.

Section 6: PC motion 17, Ms. MacLeod.

Ms. Lisa MacLeod: I move that subsection 6(1) of the bill be amended by adding "and contracting out" after "use of consultants".

This was put forward by one of the delegations, I believe, to enhance public transparency, and we'll be supporting it.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on PC motion 17? Mr. McNeely?

Mr. Phil McNeely: The term "contracting out" is ambiguous and not legally enforceable. The existing provision responds to and fulfills the Auditor General's recommendation, so we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 17? Madame Gélinas?

M^me^ France Gélinas: What do you base your statement on, that they can't do this?

Mr. Phil McNeely: That the term "contracting out" is ambiguous and not legally enforceable? Is that what you're asking? I'd have to bring the solicitor up for that.

Mr. Don Fawcett: The question is in respect to the term "contracting out." Within the context of the bill, to make this term "contracting out" understandable—we may have a general sense of contracting out, but in the context of the bill, we would have to define "contracting out" for it to have legal effect. In this case, "contracting out" appears ambiguous. It could mean any kind of contract by the organization with any entity.

M^me^ France Gélinas: So are you saying that if we were to define "contracting out," you would support this amendment?

Ms. Lisa MacLeod: Say yes.

Mr. Phil McNeely: I think I've spoken on that. We'll be opposing that motion.

M^me^ France Gélinas: Is somebody going to answer my question? If we were to define "contracting out," would you be supporting the amendment?

Mr. Khalil Ramal: No.

Mr. Phil McNeely: I would have to get a further solicitor explanation on that.

Ms. Lisa MacLeod: My colleague from the third party is actually asking a political question, one where she would actually appreciate an answer, as would I, as the mover of this amendment.

If we said extend the proposed legislation to include reporting on forms of contracting out to beyond the hiring of consultants, if we defined "contracting out," would you, Phil McNeely, support this amendment?

Mr. Khalil Ramal: No.

Mr. Phil McNeely: I think that the reasons that we want it to stay as is have been explained, and we'll be opposing that motion.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on—

M^me^ France Gélinas: Can we get Khalil's answer on the record?

The Chair (Mr. Shafiq Qaadri): Pardon me?

Mr. Khalil Ramal: It's already on the record.

The Chair (Mr. Shafiq Qaadri): Anything said in this committee is on the record.

M^me^ France Gélinas: Okay, because Khalil has said no, and his little microphone wasn't on at the time.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments on PC motion 17? Then we'll proceed to the vote. Those in favour of PC motion 17?

Ms. Lisa MacLeod: A recorded vote, please.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 17 falls.

NDP motion 18.

M^me^ France Gélinas: I move that section 6 of the bill be amended by adding the following subsection:

"Same

"(1.1) The hospital shall provide a copy of the report to the Minister of Health and Long-Term Care, which shall be tabled in the Legislature and posted publicly on the Ministry of Health and Long-Term Care website."

Basically, what I'm trying to do is outline the obligation of the hospital on the reporting of their use of consultants.

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Lisa MacLeod: We obviously have the same motion, which will be ruled out of order, so we will therefore be supporting the third party.

This is a reasonable request made by the Registered Nurses' Association of Ontario who, if you will recall, in their presentation to committee last week, had a lot of concerns with the LHINs and wanted to make sure that there was more transparency. In this instance, they are looking for more transparency: that hospitals should provide a copy of the report to the Minister of Health and Long-Term Care and that it ought to be tabled in the Ontario Legislature and publicly posted online. We think that this is the new era of public accountability, one in which this bill, in more cases than not, neglects to be up to the job. In fact, as you'll recall, we put forward a bill called the Truth in Government Act that would have had more disclosure on public websites of this nature.

The reason we will not support this bill at the end of the day is because in every attempt to make the system more whole and to ensure that there is more transparency and accountability, the government either goes halfway or doesn't go there at all.

We'll be supporting this motion. We do hope that the government will support it as well.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 18?

M^me^ France Gélinas: I want to make sure that everybody understands: The hospital will be doing the report. The work is already done. All we're asking is that the work that they have done because of Bill 122 becomes accessible, so that people can have access to it. To table it with the Legislature and to put it on a website is not hard work. It may seem like tabling with the Legislature will include a lot of work; it doesn't. You send it to the Clerk, and the Clerk brings it, and voila, it's done. To put it on a website—I'm sure they know how to do this.

We have to complete the next step. To ask them to prepare all sorts of reports and then not make those reports accessible to the public defeats the purpose of the bill. The purpose of the bill is to bring accountability. Accountability comes through transparency. To have them prepare all sorts of reports—hospitals already prepare all sorts of reports that none of us have access to. That didn't help us, did it?

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments to NDP motion 18?

Ms. Lisa MacLeod: I request a recorded vote.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 18 falls.

Ms. MacLeod, as you see, PC motion 19—may I take it as a withdrawal?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): Thank you. NDP motion 20: Madame Gélinas.

M^me^ France Gélinas: I move that subsections 6(2) and (3) of the bill be struck out and the following substituted:

"Regulations

"(2) The Minister of Health and Long-Term Care may make regulations respecting the reports, including regulations with respect to,

"(a) the information that shall be included in reports made under subsection (1);

"(b) to whom the reports shall be submitted; and

"(c) the form, manner and timing of the reports.

"Compliance

"(3) Every hospital shall comply with the regulations."

Basically, we're changing a directive into a regulation.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ms. Lisa MacLeod: You will notice that the official opposition does have the exact same motion put forward, and let me explain why the official opposition believes this is important.

One of the big reasons we voted against this at second reading and will likely vote against this at third reading is that we don't believe the directives are strong enough. We feel that it's toothless, it lacks any strength and won't really impact much. It's not as strong as it could have been and should have been. We heard, from time to time, our colleagues from the Registered Nurses' Association of Ontario put forward this idea, and I must say the official opposition concurs. We feel that the bill lacks any strength, given this sort of flimsy approach with just general directives.

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It also, I think, speaks to the fact that on many occasions, the Premier of this province has put forward directives to agencies that have not been met. Our concern in the official opposition is if the government is willing to break the rules on some of its directives and even some of those laws, we need to be a little stronger in the language in these bills.

We will be supporting this motion to amend subsections 6(2) and (3) of the bill in keeping with the ideas put forward by the RNAO.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NPD motion 20? Mr. McNeely.

Mr. Phil McNeely: There's no legal difference between a regulation and a directive, especially because under the bill, organizations subject to directives are required to comply with the directives. A directive made under the bill must also be made public. Directives also allow more flexibility and in adapting to changing circumstances to ensure accountability and transparency. We will not be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Jones, then Madame Gélinas.

Ms. Sylvia Jones: Thank you. That's the second time that the parliamentary assistant has made reference to the similarities between directives and regulations. The reality is that directives can be changed with one person; regulations, at least, have to go to cabinet and be signed off by cabinet. So there is a rather dramatic difference—and of course, they have to be gazetted as well, where directives do not. There is a big enough difference between a directive and a regulation that at the very minimum, we should be ensuring these changes through regulation.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^me^ France Gélinas: I would concur and add to what my colleague has just said that regulations are subject to public consultation. What could happen with a directive is a directive comes out of nowhere, nobody knows, and then you're left to react. When you make it a regulation, then at least there's a phase of public consultation. If the stakeholder, if the public of Ontario is not happy, they have an opportunity to have their voices heard before the fact. With a directive, you are after the fact and frankly, ineffective.

I would ask legal counsel to confirm that.

Mr. Ralph Armstrong: I am not sure that I can confirm that in the case of the system under this bill. Regulations are not in all cases subject to public consultations. There are certain government policies in place about certain regulations that must be consulted on, and some acts specifically require them; yet that cannot be said to be a general rule.

There are differences between regulations and directives. Regulations must be filed with the registrar of regulations; they are published on e-Laws etc. On the other hand, in fairness, it must be said that the directives under this bill are required to be publicly posted on a government website, which would be in its nature similar to e-Laws. So it's difficult to—there are certain things that are regulations; there are certain things that are directives. But on the specific situation of this bill, it is, I would think, fair to say that there is a distinct similarity between directives and regulations.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 20?

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): The NDP motion falls.

Ms. MacLeod, may I take it that PC motion 21 is withdrawn?

Ms. Lisa MacLeod: Yes. Given that the government has voted against this, I withdraw.

The Chair (Mr. Shafiq Qaadri): Thank you. NDP motion 22.

M^me^ France Gélinas: I move that clause 6(2)(b) of the bill be struck out and the following substituted:

"(b) in addition to the board of the local health integration network, to whom the reports shall be submitted; and".

Basically, what we're doing is we want to make sure that at least the report by the hospitals on consultants be submitted to the boards of the LHINs, as well as other bodies.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 22. Ms. MacLeod?

Ms. Lisa MacLeod: We do have the same motion on the next page, which will be ruled out of order, so I will lend my support to my colleague from the third party because we do feel it is important that this information is circulated to the appropriate bodies, particularly when it comes to the troubled LHINs.

The Chair (Mr. Shafiq Qaadri): Further comments to NDP motion 22?

Mr. Phil McNeely: The government supports this motion. It is consistent with the accountability relationship existing between hospitals and the LHIN.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Interjections.

The Chair (Mr. Shafiq Qaadri): I would invite those interjections on the record, should you wish.

Ms. Sylvia Jones: I'm speechless.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 22? Any opposed? NDP motion 22 carries.

PC motion 23 is out of order, withdrawn and also carried, now. Fine.

NDP motion 24.

M^me^ France Gélinas: I move that clause 6(2)(c) of the bill be struck out and the following substituted:

"(c) the form, manner, timing and public posting of the reports."

Basically, it's a requirement that we would put on hospital reports.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. MacLeod.

Ms. Lisa MacLeod: We too have this motion, which will be ruled out of order. Hopefully, the government will also vote to support this one, but we believe—

Mr. Khalil Ramal: They were faster.

Ms. Lisa MacLeod: Pardon me?

Mr. Khalil Ramal: They were faster, I guess, submitting the—

Ms. Lisa MacLeod: Yeah, they were faster than we were.

The RNAO has put this idea forward. We agree with them; we believe that these reports should be publicly posted. We have suggested this in earlier motions as well, that these reports be made publicly available and accessible without charge to the public, so we will be supporting the NDP motion in the spirit of the motion that we've put forward as well.

The Chair (Mr. Shafiq Qaadri): Mr. McNeely?

Mr. Phil McNeely: The bill responds directly to and fulfills the recommendation in the Auditor General's report with respect to reporting on the use of consultants. We believe providing the minister with the power to issue directives on how the reports are to be produced and distributed is appropriate, so we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^me^ France Gélinas: The intentions of Bill 122 are good: They want to bring accountability; they want to bring transparency. But if you don't make it publicly accessible, we're not going to achieve anything.

If you read the complete Auditor General's report, it's clear that the type of reports he's talking about are publicly accessible reports. This is how the accountability comes into play. You are accountable once people see what you have done. To leave the bill as it is, where there is nowhere that says that those reports will be made public, then leads one to believe that you have no intention of making those reports public. People will have to spend lots of money to get at them through freedom of access of information. Why? How do we serve the public good?

The hospital has done the work, the public has already spoken and said that they wanted transparency, the Auditor General writes a report telling you that you have to do better and you respond with a bill that's labelled "accountability," but then you ask a whole bunch of health care transfer payment agencies to do a whole bunch of work—and then it's all to no avail, because nobody will have access to that work. Nobody will have access to that information.

1520

The Chair (Mr. Shafiq Qaadri): Thank you, Mme Gélinas. Further questions, comments, replies even? We'll proceed then to the vote.

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 24 falls.

May I take it that PC motion 25 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): We'll proceed to consider the section.

Shall section 6, as amended carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): Then we'll have a vote on that.

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

Dhillon, Johnson, McNeely, Ramal.

Nays

Gélinas, Jones, MacLeod.

The Chair (Mr. Shafiq Qaadri): Section 6, as amended, carries.

NDP motion 26.

M^me^ France Gélinas: I move that that the bill be amended by adding the following section:

"Reporting, others

"6.1 Sections 5 and 6 apply, with necessary modifications, to,

"(a) every board of health under the Health Protection and Promotion Act;

"(b) every community care access corporation;

"(c) every home-care agency, whether or not operated for profit; and

"(d) every long-term care facility, whether or not operated for profit."

Basically, it makes the public reporting of the use of consultants apply to not only hospitals but to all of the major health care players, the ones that receive the bulk of the $43 billion—almost $45 billion—that the government spends on health care.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Phil McNeely: This motion would require boards of health, home care agencies and long-term-care homes to report on their use of consultants, but none of these entities are included under the bill. For this reason, we cannot support the motion.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod?

Ms. Lisa MacLeod: I'm going to be supporting this bill. I think it's unfortunate that the government has taken that approach because I think it speaks to—if we want to get this bill right, and some of us do, it becomes impossible to support it when trying to get the whole bill right is deemed not important by the government. I think my colleague from the NDP enters into this debate today, particularly with this motion, as someone who wants to ensure that we're doing it right and doing it appropriately.

I'll just take the defeat of this motion as one more example that the government just wants, I guess, to give a band-aid solution to what I think is a very gaping and problematic issue that we're faced with in Ontario with respect to transparency and public accountability. She'll have my support on this, and I want to congratulate her for bringing it forward.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 26? Madame Gélinas?

M^me^ France Gélinas: All we're asking for here is a report on the use of consultants. This is not a big step towards transparency, but it is a step, and to say that the boards of health, CCACs, home care and long-term-care facilities are not—you give me as an excuse that they're not included in the bill, but we are working through the bill right now. It is up to us to include them, and all we're asking them to do is report on the use of consultants. That's it; that's all. It's not a big ask, but it will go a long way towards appeasing the public who doesn't think that their health care dollars are being used wisely.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote.

Those in favour of—

Ms. Lisa MacLeod: Recorded vote.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 26 falls.

We'll proceed now to the next section, government motion 27. We invite you to present it, Mr. McNeely.

Mr. Phil McNeely: I move that subsection 7(1) of the bill be amended by striking out "form, manner and timing" and substituting "content, form, manner and timing".

This is a technical amendment to make the regulation-making authority in this section align with the directive-making authority above.

The Chair (Mr. Shafiq Qaadri): Comments on government motion 27? Seeing none, we'll proceed to the vote. Those in favour of government motion 27? Those opposed? Motion 27 carries.

Shall section 7, as amended, carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): We'll vote on this.

Ms. Lisa MacLeod: Recorded vote.

Ayes

Dhillon, Johnson, McNeely, Ramal.

Nays

Jones, MacLeod.

The Chair (Mr. Shafiq Qaadri): Section 7, as amended, carries.

Section 8, NDP motion 28.

M^me^ France Gélinas: I move that section 8 of the bill be amended,

(a) in subsection (1), by striking out "directives" and substituting "regulations";

(b) in subsection (2), by striking out "may issue directives" and substituting "may make regulations"; and

(c) in subsection (3), by striking out "directives" and substituting "regulations".

Basically, what we're trying to do is that—with regulations come the requirement for public consultation. Directives do not come with this obligation for public consultation. It is an attempt to increase transparency. If there are going to be changes, let's make the changes, at least, in regulations, so that people are aware, people's voices can be heard and it doesn't hit the field when they didn't even see it coming. A regulation is preferable, and I hope the government will see that.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod?

Ms. Lisa MacLeod: I support this motion. Obviously, we've got our motion, which is identical, right after this, which will be ruled out of order.

May I just remind members of the committee that it was health care professionals who did put forward this motion, from the Registered Nurses' Association of Ontario. I think had the government communicated with that group prior to bringing this to the House and to this committee, they probably would have done it over again and probably would have chosen some of the wording put forward by the RNAO, as well as by the third party and the official opposition.

We will be supporting this. I believe it enhances transparency and accountability, but I also think it strengthens what the government is intending to do here, but we'll see what happens.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 28?

Mr. Phil McNeely: There is no legal difference between a regulation and a directive, especially because, under the bill, organizations subject to directives are required to comply with directives. A directive made under a bill must also be made public. Directives allow more flexibility in adapting to changing circumstances to ensure accountability and transparency, so we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote on NDP motion 28—

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

Gélinas, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 28 falls.

May I take it that PC motion 29 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 30, Madame Gélinas.

M^me^ France Gélinas: I move that subsection 8(3) of the bill be amended by striking out "may" in the portion before clause (a) and substituting "shall".

To me, if we keep it as "may", then that means that the directive regarding the public reporting of expenses is not mandatory but an option; it "may" happen. If we switch this to "shall", then it makes it mandatory.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 30?

Ms. Lisa MacLeod: If I may, very quickly, obviously you will see that the official opposition has put forward the same motion, so we will withdraw it at the time.

Having said that, we again have listened to our friends at the RNAO, who would like to see this bill with more teeth and with more strength.

With that in mind, I will support my colleague in the third party.

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The Chair (Mr. Shafiq Qaadri): Mr. McNeely?

Mr. Phil McNeely: We support this amendment, Chair.

Mr. Rick Johnson: Recorded vote.

The Chair (Mr. Shafiq Qaadri): We'll proceed now to the recorded vote.

Ayes

Dhillon, Gélinas, Johnson, Lalonde, MacLeod, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 30 carries.

Ms. MacLeod, may I assume PC motion 31 is withdrawn?

Ms. Lisa MacLeod: Yes, now that it's carried.

The Chair (Mr. Shafiq Qaadri): Shall section 8, as amended, carry? Carried.

To date, we've received no motions for sections 9 to 13, so will committee consider them en bloc?

Those in favour of sections—

Ms. Lisa MacLeod: Just very quickly, I wanted to highlight—I've been contacted, and I know many of my colleagues have been, with respect to procurement standards by the broader public sector. There were some concerns of the charitable groups—I want to look at their proper name here—the Ontario Nonprofit Network had some concerns. I'm not sure if the government has responded to those at all, but there were concerns raised during this debate and I wanted to put that on the record.

The Chair (Mr. Shafiq Qaadri): Are there any further comments before we consider, en bloc, sections 9 to 13 inclusive?

Seeing none, we'll proceed to that vote. Shall sections 9 to 13 carry? Carried.

We'll now proceed to NDP motion 32.

M^me^ France Gélinas: I move that subsection 14(2) of the bill be amended by striking out "may" in the portion before clause (a) and substituting "shall".

Basically, here again it is to make it mandatory, as opposed to optional.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 32? Mr. McNeely?

Mr. Phil McNeely: Although we intend on including this information in the directives, the motion would mean that the directives would have to be issued immediately upon proclamation, limiting flexibility in implementing the bill. For that reason, we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: This also was a product of our discussion in this committee by the RNAO. As a result, I've put forward the same motion, which is on page 33. Therefore, I will be supporting the NDP motion before mine is ruled out of order.

The Chair (Mr. Shafiq Qaadri): We'll proceed now to the vote. Those in favour of NDP motion 32? Those opposed? NDP motion 32 is defeated.

May I take it, then, that PC motion 33 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 34.

M^me^ France Gélinas: I move that section 14 of the bill be amended by adding the following subsection:

"Posting

"(4) Every local health integration network shall publicly post the attestations on their website."

Basically, this makes sure that LHINs make this information available on their websites.

The Chair (Mr. Shafiq Qaadri): Comments? Ms. MacLeod.

Ms. Lisa MacLeod: This will probably come as no surprise: The official opposition also put forward the same amendment.

Mr. Khalil Ramal: You guys think alike, eh?

Ms. Lisa MacLeod: I beg your pardon?

Mr. Khalil Ramal: You think alike.

Ms. Lisa MacLeod: Well, when it comes to accountability, I don't think the opposition parties are that far off. In addition, I think that when the Registered Nurses' Association of Ontario comes to committee and brings forward their views on health care, one must listen. Therefore, we've put forward the same amendment, at their request, and we will therefore be supporting the NDP.

The Chair (Mr. Shafiq Qaadri): Mr. McNeely?

Mr. Phil McNeely: We support the intent of this motion. We'll be supporting the next motion from the official opposition as well. LHINs currently provide attestations to the ministry and these are often posted on their websites or reported in board minutes, which are publicly available. So we support motion 34.

The Chair (Mr. Shafiq Qaadri): Then we'll proceed to the vote. Those in favour of NDP motion 34? Those opposed? None. NDP motion 34 carries.

May I take it that PC motion 35 is withdrawn?

Ms. Lisa MacLeod: It's withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 36. Madame Gélinas?

M^me^ France Gélinas: I move that section 14 of the bill be amended by adding the following subsection:

"Tabling

"(5) The Minister of Health and Long-Term Care shall table the attestations from the local health integration networks in the Legislature."

Here again, it's trying to make work that will already have been submitted more accessible and publicly available.

The Chair (Mr. Shafiq Qaadri): Merci. Madam MacLeod.

Ms. Lisa MacLeod: Mr. Chair, as you've seen on page 37, the official opposition has put forward the same amendment. Therefore, we will be supporting it, and I look forward to government support of this motion as well.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 36? Mr. McNeely.

Mr. Phil McNeely: We believe that publicly posting the attestations on a website is sufficient. LHIN annual reports are already tabled in the Legislature. We cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Are there any further comments? We'll proceed, then, to the vote.

M^me^ France Gélinas: Recorded vote.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 36 is defeated.

May I take it that PC motion 37 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): Shall section 14, as amended, carry? We'll proceed to a vote. Those in favour of section 14, as amended? Those opposed? Section 14, as amended, carries.

Section 15, NDP motion 38.

M^me^ France Gélinas: I move that subsection 15(3) of the bill be amended by striking out "may" in the portion before clause (a) and substituting "shall".

Here again, the LHINs will prepare the attestations, will have to submit them. With changing "may" to "shall," we make sure that it is not an option, that it is mandatory.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments to NDP motion 38? Ms. MacLeod.

Ms. Lisa MacLeod: On page 39, we have the same motion. Obviously, it was proposed as well by the RNAO. We believe that this makes the language in the bill stronger, and that's why we will be supporting both the NDP motion and ours. I look forward to government support of this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments to NDP motion 38? Mr. McNeely.

Mr. Phil McNeely: Although we intend to include this information in the directives, this motion would mean that the directives would have to be issued immediately upon proclamation, limiting flexibility in implementing the bill. For that reason, we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of NDP motion 38?

Ms. Lisa MacLeod: Recorded, please.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 38 falls.

May I take it that PC motion 39 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 40: Madame Gélinas.

M^me^ France Gélinas: I move that section 15 of the bill be amended by adding the following subsection:

"Posting

"(5) Every hospital shall publicly post the attestations on their website."

Basically, it makes the attestations accessible to all.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments to NDP motion 40? Mr. McNeely.

Mr. Phil McNeely: We support the motion.

M^me^ France Gélinas: Thanks.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: We have the same motion right behind here, so we clearly support it. We look forward to supporting this.

Interjection.

Ms. Lisa MacLeod: I can't hear myself above the calling from the colleague across the way. If he could just listen when I speak.

The Chair (Mr. Shafiq Qaadri): I would invite the colleague from across the way to adopt that measure.

Ms. MacLeod.

Ms. Lisa MacLeod: We'll be supporting this.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed now to the vote. Those in favour of NDP motion 40?

Mr. Rick Johnson: Recorded vote.

Ayes

Dhillon, Gélinas, Johnson, Jones, Lalonde, MacLeod, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 40 carries.

I'll take it that PC motion 41 is withdrawn.

Ms. Lisa MacLeod: Withdrawn, now that it's been adopted.

The Chair (Mr. Shafiq Qaadri): NDP motion 42: Madame Gélinas.

M^me^ France Gélinas: I move that section 15 of the bill be amended by adding the following subsection:

"Tabling

"(6) The Minister of Health and Long-Term Care shall table the attestations from hospitals in the Legislature."

This is again to make them more accessible, visible, and increase transparency.

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The Chair (Mr. Shafiq Qaadri): Further comments? Ms. MacLeod.

Ms. Lisa MacLeod: You'll notice that on page 43 the official opposition has put forward the same resolution. We believe that that's important as we move forward.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 42? Seeing none, we'll proceed then—

Mr. Phil McNeely: Just a minute, Chair.

The Chair (Mr. Shafiq Qaadri): Yes, Mr. McNeely.

Mr. Phil McNeely: We believe that public posting of the attestations on a website is sufficient. Tabling over 150 reports every time they are received would be administratively burdensome for the ministry and the Legislature, especially considering they will be publicly posted. We cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote. Those in favour of NDP motion 42? Those opposed? Motion 42 is defeated.

May I take it that PC motion 43 is withdrawn?

Ms. Lisa MacLeod: Yes.

The Chair (Mr. Shafiq Qaadri): Shall section 15, as amended, carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. Those in favour of section 15, as amended, carrying? In favour? Those opposed? Section 15, as amended, carries.

Section 16: government motion 44. Mr. McNeely.

Mr. Phil McNeely: I move that subsection 16(1) of the bill be amended by striking out "form, manner and timing" and substituting "content, form, manner and timing".

This is a technical amendment to make the regulation-making authority in this section align with the directive-making authority above.

The Chair (Mr. Shafiq Qaadri): Any further comments on government motion 44?

Seeing none, we'll proceed to the vote. Those in favour of government motion 44? Those opposed? Motion 44 carried.

Shall section 16, as amended, carry? Carried.

Having received to date no motions for sections 17 to 23, inclusive, I take it as the will of committee that it will proceed on block vote. Those in favour of sections 17 to 23, inclusive, carrying? Opposed? Sections 17 to 23, inclusive, carry.

Section 24: NDP motion 45.

M^me^ France Gélinas: I move that subsection 24(4) of the bill be struck out and the following substituted:

"'(4) The definition of 'institution' in subsection 2(1) of the act is amended by striking out 'and' at the end of clause (a.1) and by adding the following clauses:

"'(a.2) a hospital,

"'(a.3) a long-term care home within the meaning of the Long-Term Care Homes Act, 2007,

"'(a.4) a community care access corporation within the meaning of the Community Care Access Corporations Act, 2001, and

"'(a.5) a board of health under the Health Protection and Promotion Act;

"'(a.6) a home care agency, whether or not operated for profit;

"'(a.7) a company subcontracted by an entity mentioned in clause (a.4), (a.5) or (a.6). and'"

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 45?

M^me^ France Gélinas: Basically, it's taking the language out of FIPPA and adding this to this bill so that all of the agencies that FIPPA applies to, the FOI would also apply to.

The Chair (Mr. Shafiq Qaadri): Any further comments? Mr. McNeely?

Mr. Phil McNeely: This motion is very problematic. We cannot support it for a number of reasons.

Boards of health are currently subject to the Municipal Freedom of Information and Protection of Privacy Act. Including them here would conflict with their current status.

Bringing other agencies under the Freedom of Information and Protection of Privacy Act with one line in a bill is not an approach we're supportive of. We believe in working with our partners, especially when sensitive health information is present, to get it right.

Clause (a.7) is highly problematic and unintentionally broad. Any company subcontracted by a community care access corporation, a board of health or a home care agency would become subject to FIPPA. This means that private sector service providers become subject to FIPPA once they have contracted with one of these organizations. For example, this could have the effect of bringing Sears Canada under FIPPA if Sears was hired to clean the carpets of one of these organizations. It's much too broad, so we will not be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 45?

M^me^ France Gélinas: The Freedom of Information and Protection of Privacy Act actually gives people more privacy. We brought those agencies under FIPPA so that they would have to treat personal information with more privacy. To now make them FOI-able—those are already agencies that know how to handle personal information. It is an opportunity to strengthen the bill so that people have access to information.

As I said, the information that our Auditor General has uncovered when it comes to the use of consultants, the use of lobbying and the use of public money to wine and dine people has shocked the people of Ontario. It is not only happening in hospitals and LHINs; it is happening in other parts of our health care system. The public wants information on them just as much as they want information on hospitals and LHINs.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on NDP motion 45? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 45? Those opposed? NDP motion 45 is defeated.

PC motion 46.

Ms. Lisa MacLeod: I move that subsection 24(4) of the bill be struck out and the following substituted:

"(4) The definition of 'institution' in subsection 2(1) of the act is amended by striking out 'and' at the end of clause (a.1) and by adding the following clauses:

"'(a.2) a hospital,

"'(a.3) a public sector body, and'"

The reason we do this is because we in the official opposition believe that freedom of information should be expanded throughout all of government.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 46?

Mr. Phil McNeely: This motion would have no legal effect because "public sector body" is not defined in FIPPA. Therefore, this provision would be unenforceable. We cannot support this motion.

Ms. Lisa MacLeod: I ask my honourable colleague, if there was a legal definition that was acceptable to him that would take in the spirit of "public sector body," meaning any entity that was wholly publicly funded, would the government support this motion?

Mr. Phil McNeely: We cannot support this motion.

Ms. Lisa MacLeod: Why, if it was wholly defined? I'm asking a political question of the government.

The Chair (Mr. Shafiq Qaadri): I believe you're getting a political answer currently.

Ms. Lisa MacLeod: Silence. Well, their silence is speaking volumes.

Ms. Sylvia Jones: Yes, it is.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on PC motion 46?

Ms. Lisa MacLeod: I'd like a recorded vote.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^me^ France Gélinas: I would say their answer to this motion was a technicality: that we don't have a definition. But when you offered to work around and work out the technicality, then they went silent. To me, this is not the real reason why they're voting it down. It's not

because of a technicality. It's because they don't want the transparency that is sought for all of the agencies that make up the $45 billion that we spend on health care in this province.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 46 is defeated.

PC motion 47.

Ms. Lisa MacLeod: I move that subsection 24 of the bill be amended by adding the following subsection:

"(5.1) Section 2 of the act is amended by adding the following subsection:

"'Broader public sector

"'(6) For the purposes of this act, the powers of the commissioner are defined to include the power to require,

"'(a) full proactive disclosure of all contracts over $10,000 at all public sector bodies, including their posting on-line;

"'(b) full proactive disclosure of travel and hospitality expenses at all public sector bodies, including their posting on-line;

"'(c) full proactive disclosure of grants and contributions over $10,000 at all public sector bodies;

"'(d) full proactive disclosure of all position reclassifications at all public sector bodies.'"

This motion would entrench and enshrine into law a previous bill put forward by myself and the Ontario PC caucus called the Truth in Government Act. We feel that in order to have full disclosure, accountability and transparency in the public sector with taxpayer dollars, these four items do need to be enacted.

We have had great support from groups like the National Citizens Coalition, the Canadian Taxpayers Federation, and from many constituents right across the province who represent taxpayers.

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We feel that this is the be-all and end-all for our support of this bill. If subsection 24's amendment does not pass, it is of grave concern to us in the official opposition, and we will be forced to vote against this bill.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 47?

Mr. Phil McNeely: This is an improper amendment to the definition section of FIPPA. Public sector bodies are not defined in FIPPA, so these provisions would be unenforceable.

Furthermore, the powers of the commissioner are set out in section 59 of FIPPA. Section 59 is the section to amend in the event that additional powers are given to the commissioner. This amendment is not consistent with the drafting of FIPPA. A requirement for an institution to proactively disclose information should be placed on the institution itself, not as a discretionary power of the commissioner to compel production. We cannot support this motion.

Ms. Lisa MacLeod: Would the government be supportive if we moved it to another section in the bill?

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Ms. Lisa MacLeod: Yes. I didn't get that. Again, the silence was deafening.

Mr. Phil McNeely: We can't support this motion.

Ms. Lisa MacLeod: So you won't support this motion.

I guess the question that any reasonable person would put forward is, why is the government afraid of posting information that we already have in locations we already know about—posting this information online?

I must say, I had a meeting earlier today about this topic with the Integrity Commissioner, who indicated to me that all ABCs should be posting this information online. We already possess it; it does not cost a thing. It should be posted on ministerial websites. In the case that an ABC has its own website—for example, maybe the Niagara Parks Commission is one, or Ontario Place—it should be posted there as well. I'm just wondering why the government is afraid to post this information and bring Ontario into line with the federal government, British Columbia, Alberta and nations elsewhere.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on PC motion 47?

Ms. Lisa MacLeod: A recorded vote, please.

Ayes

Jones, MacLeod.

Nays

Dhillon, Gélinas, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 47 is defeated.

Government motion 48.

Mr. Phil McNeely: I move that section 24 of the bill be amended by adding the following subsection:

"(6.1) Subsection 18(1) of the act is amended by adding the following clause:

"'(j) information provided to, or records prepared by, a hospital committee for the purpose of assessing or evaluating the quality of health care and directly related programs and services provided by the hospital.'"

The Chair (Mr. Shafiq Qaadri): Mr. McNeely, before you proceed, it is my solemn duty to inform you as Chair of the social policy committee that because this particular motion opens section 18 of the Freedom of Information and Protection of Privacy Act, which was not previously opened in Bill 122, this motion is out of

order. There is a considerably more elegant explanation, should you wish me to enter it into the record, but I would invite you to—

Ms. Lisa MacLeod: I move unanimous consent to adopt the government's motion.

The Chair (Mr. Shafiq Qaadri): We'll just consider this. You've understood that your motion is out of order, Mr. McNeely?

Mr. Phil McNeely: Pardon me? I missed that, Chair.

The Chair (Mr. Shafiq Qaadri): It's my responsibility as Chair of this committee to inform you that the motion that you just proposed is out of order. It opens up section 18 of the Freedom of Information and Protection of Privacy Act, which was not previously opened in Bill 122. I will invite legislative counsel to contribute.

Mr. Ralph Armstrong: I have nothing to add to the explanation you've given. Those are the rules—

Ms. Lisa MacLeod: Am I able to seek unanimous consent to open this up so that this motion can be discussed? I understand, having put forward a motion on page 49, that that is what several stakeholders had requested, that the government is responding to that. I would put forward, as the official opposition, unanimous consent to support the government's motion.

The Chair (Mr. Shafiq Qaadri): The proposal on the floor is to grant unanimous consent for the discussion of this particular motion. Is it the will of the committee that we have unanimous consent?

M^me^ France Gélinas: The motion that has been initially provided was something that I could not support. At the 11th hour, some changes were made to it.

This bill was rushed through. Then it got time-allocated, so we never had a chance to fully debate it. Then it came to committee. Here again, we asked for the committee to go out, and here again, the opportunity to speak, to understand, to be heard, to correct this bill so that we get it right was curtailed.

Frankly, I support quality improvement. I support continuous quality improvement. We have made some great strides within the hospital sector lately and really want this to move forward, but you're asking me to do something at the 11th hour that—I haven't had time to really look as to what this will entail.

Some stakeholders were quick and were able to get a hold of me and talk to me this morning. I had questions for the privacy commissioner and finally got a hold of the privacy commissioner—one of the workers. I was never able to talk to her, but a worker called me back about 10 minutes before I came here.

This is not reasonable. The intent is good; the process did not allow me to give my support.

The Chair (Mr. Shafiq Qaadri): All right. So to be clear, the government, having proposed the motion, is likely in favour of discussing it. The PCs have also offered their consent. I will just ask: Do we have unanimous consent to consider this particular motion?

M^me^ France Gélinas: No.

The Chair (Mr. Shafiq Qaadri): We do not have unanimous consent. The initial ruling of being out of order stands.

We'll now proceed to the next motion, which is PC motion 49.

Ms. Lisa MacLeod: I move that subsection 24(19) of the bill be struck out and the following substituted:

"(19) Subsection 65(8.1) of the act is amended by striking out 'or' at the end of clause (a) and by adding the following clauses:

"'(c) to a record respecting or associated with research, including clinical trials, conducted or proposed by an employee of a hospital or by a person associated with a hospital;

"'(d) to a record of teaching materials collected, prepared or maintained by an employee of a hospital or by a person associated with a hospital for use at the hospital; or

"'(e) to a record prepared for or by a committee or a other body of a hospital for the purpose of risk management or for the purpose of activities to improve or maintain the quality of care.'"

I put this forward on behalf of several health care providers who made this request at committee.

The basic thought is that health care providers and those who insure health care providers were concerned that this bill could have a chilling effect on the risk management and quality improvement programs. Particularly, the risk managers had a concern with this. I believe it's quite reasonable. We, certainly, in the official opposition do not want to get in the way of those who are important to the health care system and we don't want to make sure that they are discouraged from participating in critical self-appraisals or quality-of-care reviews. That's why we would have supported the government amendment.

I agree with my colleague from the New Democrats in some respects: that it is unfortunate that this amendment only came to the official opposition and the NDP today, without explanation. I think we could have averted some of the pitfalls in this.

Having said that, the original request by four of our health care provider groups stands, and that's why I'm moving this motion forward.

The Chair (Mr. Shafiq Qaadri): PC motion 49: comments? Mr. McNeely?

Mr. Phil McNeely: We believe that excluding this information outright is too severe. The Information and Privacy Commissioner is not supportive of an exclusion of this type of information. If quality-of-care information were to be excluded from FIPPA, there would be no ability for the Information and Privacy Commissioner to order the disclosure of quality-of-care information in circumstances where there's a compelling public interest in doing so.

We cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Madame Gélinas.

M^me^ France Gélinas: This motion had been circulated ahead of time, so when we had the community consultations, I went out of my way to ask the different groups if they would support this or not. Some did and spoke to it in their presentations. Some were really opposed.

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I agree with the fact that we needed to find new language for this to move forward. Is there a need to make sure that we foster continuing quality improvements in our health care organizations? Absolutely.

This bill was rushed through and we see some of its weaknesses right now. This bill, as it stands, will have a chilling effect on many of the quality improvements that we have seen developing. This is what happens when a government goes too fast, doesn't consult and uses time allocation. We see something that is half-baked, half-cooked, doesn't meet the needs of anybody and, frankly, has the possibility to wreak havoc in the organizations that we want to succeed.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 49?

Ms. Lisa MacLeod: Just a final comment: I think all three parties acknowledge that this bill, at this point in time, is far less than perfect and, in the words of some of our stakeholders, could diminish or have a chilling effect on the quality improvement programs that they put in place. I believe it's incumbent upon us to work out a solution. That's why we call for a recess so that the official opposition, the NDP and the government can work on improving this bill. That's what our job is.

The Chair (Mr. Shafiq Qaadri): Any further comments on PC motion 49?

Did you ask for a recess?

Ms. Lisa MacLeod: I've just asked for a recess so that the three parties can work on improving this bill because the government certainly hasn't done its due diligence on this.

The Chair (Mr. Shafiq Qaadri): Is there unanimous consent for a recess at this time?

Interjections: No.

The Chair (Mr. Shafiq Qaadri): So we'll proceed then to PC motion 49 consideration, unless there are any further comments.

Those in favour of PC motion 49?

Ms. Lisa MacLeod: Recorded vote.

Ayes

Jones, MacLeod.

Nays

Gélinas, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 49 is defeated.

Shall section 24 carry? Carried.

Section 25: government motion 50.

Mr. Phil McNeely: I move that subsection 25(1) of the bill be struck out and the following substituted:

"Lobbyists Registration Act, 1998

"25(1) Clause (a) of the definition of 'public office holder' in subsection 1(1) of the Lobbyists Registration Act, 1998, is repealed and the following substituted:

"'(a) any minister, officer or employee of the crown,'"

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Phil McNeely: This motion corrects an error in drafting. There's no director of the crown.

The Chair (Mr. Shafiq Qaadri): Any further comments on government motion 50?

Those in favour of government motion—Madame Gélinas, oui? Yes?

M^me^ France Gélinas: Not that I would doubt their words, but is that true, that there's no such thing as a director of the crown?

The Chair (Mr. Shafiq Qaadri): I see a question before the floor. Would anyone care to—

M^me^ France Gélinas: Our trusty little legislative counsel there, is there such a thing as a director of the crown? Anybody?

Mr. Ralph Armstrong: Not to the best of my knowledge, but I think Mr. Fawcett, who has been indicating a desire to speak on it, can give a definitive answer.

Mr. Don Fawcett: We've asked for the amendment primarily because the expression "employee of the crown" is the correct terminology to use. There are employees of the crown employed at each ministry at what we call the director level, but that's an internal HR term. I think the correct legal expression is "employee of the crown."

M^me^ France Gélinas: That would include the directors?

Mr. Don Fawcett: That would include the directors.

M^me^ France Gélinas: Thank you.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote. Those in favour of government motion 50? Those opposed? Motion 50 carries.

NDP motion 51.

M^me^ France Gélinas: I move that paragraph 14.1 of subsection 4(4) of the Lobbyists Registration Act, 1998, as set out in subsection 25(6) of the bill, be struck out and the following substituted:

"14.1 Information confirming that the consultant lobbyist has not been engaged by a client that is prohibited from engaging lobbyist services under the Broader Public Sector Accountability Act, 2010."

Basically, if you're going to ban lobbying activity in hospitals and other broader public service from hiring lobbyists, then this section flows.

The Chair (Mr. Shafiq Qaadri): Further comments to NDP motion 51?

Mr. Phil McNeely: This motion is related to motions on pages 7(a) and 7(b) that would prohibit an organization from using funds not received from government to hire a lobbyist. The bill has been carefully drafted to align with the Charter of Rights and Freedoms. The advice we have received is this prohibition would contravene the right to freedom of expression under the charter. We respect the Charter of Rights and Freedoms and will not support this motion.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote then. Those in favour of NDP motion 51? Those opposed? NDP motion 51 falls.

Government motion 52.

Mr. Phil McNeely: I move that subsection 4(5.1) of the Lobbyists Registration Act, 1998, as set out in subsection 25(7) of the bill, be struck out and the following substituted:

"Transitional

"(5.1) A consultant lobbyist who has filed a return with the registrar before section 4 of the Broader Public Sector Accountability Act, 2010 applies to a client shall provide the information required by paragraph 14.1 of subsection 4(4) to the registrar within 30 days of the day on which that section begins to apply."

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 52?

M^me^ France Gélinas: Am I right in thinking that there would be a comma after "applies to"—"applies to, a client shall provide the information required...."? Otherwise, the sentence could be interpreted to mean different things.

The Chair (Mr. Shafiq Qaadri): The question is before the floor.

Mr. Ralph Armstrong: Would you mind repeating the question, ma'am?

M^me^ France Gélinas: Am I right in saying it reads, "A consultant lobbyist who has filed a return with the registrar before section 4 of the Broader Public Sector Accountability Act, 2010 applies to, a client shall provide the information required...."? Otherwise, the sentence kind of makes no sense.

Mr. Ralph Armstrong: You think there should be a comma after "applies to"?

M^me^ France Gélinas: "Applies to, a client shall provide"—can somebody help me here?

The Chair (Mr. Shafiq Qaadri): One may need to be a lawyer to actually allow it to make sense. That's always a possibility.

M^me^ France Gélinas: Sorry.

Mr. Ralph Armstrong: I think the punctuation is correct, ma'am. I may be missing something.

Mr. Phil McNeely: Can we have some clarification on that?

Mr. Don Fawcett: I think it may be helpful to walk through what the intention of the section is, just to make sure that what we're intending is in line with the concern that you have or addressing your concern.

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This provision provides that a consultant lobbyist has filed a return with the registrar—currently under the Lobbyists Registration Act, all the consultant lobbyists are to file a registration each time that they're proposing to lobby—before section 4 of the Broader Public Sector Accountability Act applies. So when this act comes into force, that provision's going to apply to the client. If they're subject to that prohibition in section 4, it means they can't retain a consultant lobbyist using public funds. This requires, then, the consultant lobbyist to provide the information that you'll see up in section 14.1, saying that they're not being retained by an organization that can't hire them using public funds.

So I think "applies to a client" is the correct expression.

M^me^ France Gélinas: Okay, then "shall provide the information"—all right, gotcha. I understand.

The Chair (Mr. Shafiq Qaadri): We'll proceed then to the vote. Those in favour of government motion 52? Those opposed? Motion 52 carries.

NDP motion 53.

M^me^ France Gélinas: I move that section 4.1 of the Lobbyists Registration Act, 1998, as set out in subsection 25(9) of the bill, be struck out and the following substituted:

"Consultant lobbyists and publicly funded organizations

"4.1 No consultant lobbyist shall undertake to lobby on behalf of a client where the client is prohibited from engaging a lobbyist to provide lobbyist services under section 4 of the Broader Public Sector Accountability Act, 2010."

Basically, this is closing the loop to make sure that, even if you are private or a health care provider, you're not allowed to use lobbyists.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Phil McNeely: This motion is related to motions on page 7(a) and 7(b) that would prohibit an organization from using funds not received from government to hire a lobbyist. The bill has been carefully drafted to align with the Charter of Rights and Freedoms. The advice we've received is that this prohibition would contravene the right to freedom of expression under the charter. We respect the Charter of Rights and Freedoms and will not support this motion.

The Chair (Mr. Shafiq Qaadri): Any further comments on motion 53?

Seeing none, we'll proceed to the vote. Those in favour of NDP motion 53? Opposed? Motion 53 is defeated.

Shall section 25, as amended, carry? We'll proceed to the vote. Those in favour of section 25, as amended, carrying? Opposed? Carried.

Shall section 26 carry? We'll proceed to the vote. Shall section 26 carry? Those in favour? Opposed? Carried.

Section 26.1: NDP motion 54.

M^me^ France Gélinas: I move that the bill be amended by adding the following section:

"Ombudsman Act

"26.1 The definition of 'government organization' in section 1 of the Ombudsman Act is amended by adding 'and every long-term-care home within the meaning of the Long-Term Care Homes Act, 2007 and every hospital' at the end."

Le Président (M. Shafiq Qaadri): Malheureusement, madame Gélinas, je dois vous informer que votre motion n'est pas à l'ordre. The motion is not in order, for some usually extremely elegant reasons, which I'm happy to tell you.

M^me^ France Gélinas: No, that's okay. Can I ask for unanimous consent to open up the Ombudsman Act?

The Chair (Mr. Shafiq Qaadri): You may certainly ask for unanimous consent. Do we have unanimous consent to open up the Ombudsman Act?

Seeing that we do not have unanimous consent, the motion is out of order and we shall now proceed to PC motion 55.

Ms. Lisa MacLeod: Section 26.1: I move that the bill be amended by adding the following section:

"26.1 The Ombudsman Act is amended by adding the following section

"'Broader Public Sector

"'1.1 The Ombudsman has the power to act with regard to,

"'(a) hospitals and long-term care homes;

"'(b) any organization receiving government funds;

"'(c) patient complaints;

"'(d) children's aid societies.'"

This is as a result of the—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. It is with regret, and my solemn duty once again, to inform you that your motion is out of order.

Ms. Sylvia Jones: But it's an excellent amendment.

Ms. Lisa MacLeod: It was such a good amendment.

The Chair (Mr. Shafiq Qaadri): I will certainly accept that issue.

Seeing as it's out of order, we'll now proceed to the next consideration and vote. We received two—

Mr. Khalil Ramal: Mr. Chair?

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Ramal.

Mr. Khalil Ramal: Just for the record, I want to say, on this side of the table, we are in support of accessibility and accountability. That's why we worked hard in this bill to make sure the people of Ontario would be informed and also would have the right to access all the information if they ask for it.

Also, the powers given to the Minister of Health give him or her the flexibility to publish the directives as they see fit for the public interest.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. The committee commends such due diligence.

I'd now invite us to consider en bloc sections 27 to 29, having received no motions to date. If there are no objections, shall sections 27 to 29 carry?

Interjections: No.

The Chair (Mr. Shafiq Qaadri): They shall not carry without the vote. I will now proceed to the vote.

Shall sections 27 to 29, inclusive, carry? Those in favour? Those opposed? Carried.

Shall the short title carry? Carried.

Shall the title carry? Carried.

Shall Bill 122, as amended, carry?

Ms. Lisa MacLeod: No. Recorded vote.

Ayes

Dhillon, Gélinas, Johnson, Lalonde, McNeely, Ramal.

Nays

Jones, MacLeod.

The Chair (Mr. Shafiq Qaadri): Bill 122, as amended, carries.

Shall I report the bill, as amended, to the House?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote.

Those in favour? Those opposed? The bill will be reported to the House, as amended.

Is there any further business before this committee? Seeing none, committee adjourned.

The committee adjourned at 1616.

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Clerk / Greffière
Ms. Susan Sourial

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Mr. Ralph Armstrong, legislative counsel

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Official Report of Debates (Hansard)

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Journal des débats (Hansard)

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Standing Committee on Social Policy

Comité permanent de la politique sociale

Health Protection and Promotion Amendment Act, 2011

Loi de 2011 modifiant la Loi sur la protection et la promotion de la santé

Chair: Shafiq Qaadri
Clerk: Susan Sourial

Président : Shafiq Qaadri
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Tuesday 22 March 2011

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mardi 22 mars 2011

The committee met at 1602 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen and colleagues, I welcome you to the Standing Committee on Social Policy. As you know, we're here for proceedings on Bill 141, An Act to amend the Health Protection and Promotion Act. We have a number of presenters today, but before that, I will invite a member of the subcommittee to please present the latest subcommittee report, for which purpose I will invite Ms. Sandals or Mr. Ramal.

Mrs. Liz Sandals: Probably better him.

Le Président (M. Shafiq Qaadri): Monsieur Ramal, s'il vous plaît, procédez immédiatement, tout de suite.

Mr. Khalil Ramal: Thank you, monsieur le Président.

Your subcommittee on committee business met on Monday, March 7, 2011, to consider the method of proceeding on Bill 141, An Act to amend the Health Protection and Promotion Act, and recommends the following:

(1) That the committee hold a public hearing in Toronto, at Queen's Park, on Tuesday, March 22, 2011.

(2) That the clerk of the committee, with the authorization of the Chair, post information regarding the committee's business once in the following newspapers, as soon as possible: the Globe and Mail, the Toronto Star and L'Express.

(3) That the clerk of the committee, with the authorization of the Chair, post information regarding the committee's business on the Ontario parliamentary channel, the Legislative Assembly website and with Canada NewsWire.

(4) That the committee invite Dr. Arlene King, chief medical officer of health of Ontario, to appear before the committee on Tuesday, March 22, 2011, and that Dr. King be offered the same length of time for the presentation as other presenters.

(5) That interested people who wish to be considered to make an oral presentation on Bill 141 should contact the clerk of the committee by 5 p.m. on Wednesday, March 16, 2011.

(6) That, following the deadline for receipt of requests to appear on Bill 141, the clerk of the committee provide the subcommittee members with an electronic list of all the potential witnesses who have requested to appear before the committee.

(7) That, if required, each of the subcommittee members supply the clerk of the committee with a prioritized list of the witnesses they would like to hear from by 2 p.m. on Thursday, March 17, 2011. These witnesses must be selected from the original list distributed by the committee clerk.

(8) That the groups or individuals initially be offered 10 minutes for their presentations, including time for questions, and that if all groups and individuals whose requests to appear were received by the deadline can be accommodated in 15-minute timeslots, they then be offered 15 minutes for their presentations.

(9) That the deadline for receipt of written submissions be 5 p.m. on Tuesday, March 22, 2011.

(10) That amendments to the bill be filed with the clerk of the committee by 12 noon on Thursday, March 24, 2011.

(11) That the research officer provide the committee with a summary of witness presentations by 5 p.m. on Thursday, March 24, 2011.

(12) That the committee meet on Monday, March 28, 2011, for clause-by-clause consideration of the bill.

(13) That the clerk of the committee, in consultation with the Chair, be authorized to commence making any preliminary arrangements necessary to facilitate the committee's proceedings prior to the adoption of this report.

The Chair (Mr. Shafiq Qaadri): Are there any questions and comments or urgent items before we adopt the subcommittee report, as read? Madame Gélinas?

M^me^ France Gélinas: I was voting in favour.

The Chair (Mr. Shafiq Qaadri): Fine. So let's consider that unanimous.

HEALTH PROTECTION AND PROMOTION AMENDMENT ACT, 2011

LOI DE 2011 MODIFIANT LA LOI SUR LA PROTECTION ET LA PROMOTION DE LA SANTÉ

Consideration of Bill 141, An Act to amend the Health Protection and Promotion Act / Projet de loi 141, Loi modifiant la Loi sur la protection et la promotion de la santé.

The Chair (Mr. Shafiq Qaadri): We'll now move to our presentations. As you know, we have, I believe, three presenters, each of whom will be offered the exact same 15 minutes in which to make their presentations, and any questions will be addressed in the time remaining. The time will be enforced with military precision.

OFFICE OF THE CHIEF MEDICAL OFFICER OF HEALTH

The Chair (Mr. Shafiq Qaadri): I now invite, from the Ministry of Health and Long-Term Care, Office of the Chief Medical Officer of Health, Dr. David Williams, associate chief medical officer of health.

Welcome, Dr. Williams. I invite you to be seated, and please identify your colleague. I invite you to officially begin now.

Dr. David Williams: Good afternoon. My name is Dr. David Williams. I am the associate chief medical officer of health, protection and prevention. I'm here on behalf of Dr. Arlene King, Ontario's chief medical officer of health. Dr. King wanted very much to be here today, but unfortunately, she's unable to attend because she's out of the country. Accordingly, I'm currently the acting chief medical officer of health for Ontario.

I'm here to speak to Bill 141, the government's proposed amendments to the Health Protection and Promotion Act, from the point of view of the Office of the Chief Medical Officer of Health.

The purpose of this proposed legislation is to strengthen Ontario's response to future major public health events and emergencies, such as a pandemic. Our experience with H1N1 provided us with the opportunity and responsibility to review how we responded and how we might better respond the next time there is a need. It provided us with an opportunity to ask, "What if?", to think about other possible scenarios and eventualities and to allow those to help guide our future response.

I want to reinforce, however, that these amendments are not a criticism of the local response. On the contrary, the system and the professionals who work within it performed admirably. For that, they have our heartfelt thanks.

Public health units across Ontario worked very hard to implement the largest mass immunization program ever, and they mobilized to do everything necessary to protect the public's health. That was evident time and again during the H1N1 pandemic. For example, public health units worked in close collaboration with various partners, including First Nation organizations, federal, provincial and local organizations, other public health units, and their communities. Due in large part to this coordinated effort, Ontario fared very well during the H1N1 pandemic, but there were challenges and many lessons learned.

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In her preliminary report on the H1N1 response, released in June 2010, Dr. King recommended a strong, centralized approach to pandemic response, one that the current legislation doesn't permit. She suggested that the chief medical officer of health must have the authority to direct public health units in real time. The proposed legislation will provide greater support to local public health units and enable them to respond to a public health event or emergency with greater consistency.

There are times when local public health units would benefit from more clarity and a standardized approach when faced with a major health event like the H1N1 pandemic. Ontario has one of the most decentralized public health systems in the country, and that has many advantages, such as tailoring services to meet local needs. But in the case of an emergency, Ontarians would benefit by more consistency and standardization across the province.

In summary, the proposed amendments would strengthen the province's ability to plan, manage and respond to future pandemics, provincial, national or international public health events and/or other emergencies that affect the health of Ontarians. Specifically, the amendment is proposed to create a new authority for the chief medical officer of health.

The proposed legislation would give the chief medical officer of health enhanced oversight authority to help ensure that Ontario's response is better coordinated. If the legislation is passed, the chief medical officer of health would have the authority to direct boards of health and local medical officers of health to adopt measures during a future public health emergency if he or she feels that Ontarians would be better protected by a coordinated response to an outbreak or emerging public health event. Such directives would be enforced for six months or less if the CMOH so decided and such directives would be limited to very specific situations—for example, to cases of infectious diseases, environmental health and public health and emergency preparedness.

The proposed amendments would also ensure that the appointments of acting medical officers of health are approved by the chief medical officer of health and the Minister of Health. Again, this proposed change is not intended as a criticism of the current acting MOHs, or medical officers of health, who have performed well and demonstrated their commitment to public health across the province. Rather, consistency in training will support consistency of action and a consistent language, all extremely important during an urgent event.

Currently, acting medical officers of health appointments do not require approval by the chief medical officer of health or the minister. However, the appointment of a medical officer of health and an associate medical officer of health are approved by the minister, which allows the minister to review the proposed appointment by the board of health. The approval of an acting medical officer of health by the minister and the chief medical officer of health will align the process with that of a medical officer of health and an associate medical officer of health appointment. This will also provide another screening step to ensure that acting MOHs—medical officers of health—are fully qualified to take on that role.

The amendments would also expand the minister's power to use a public space, on the advice of the chief medical officer of health, for public health purposes, like holding an immunization clinic. Accessing public spaces would support local MOHs at a time when they are occupied with handling the emergency locally. Let me note that the proposed amendment refers only to public premises whose owner is already part of the broader public sector. The definition of "broader public sector" is taken from the Financial Administration Act and includes, among others, schools, colleges, universities, entities that are a health service provider and municipalities. The current compensation scheme in the HPPA, or Health Protection and Promotion Act, would be extended so that the occupier of the premises would be entitled to compensation for the use and occupation of the premises in accordance with the Expropriations Act. There is no doubt that Ontario's public health system and, by extension, Ontarians would benefit from these proposed amendments.

Thank you for this opportunity to speak to you, and now I'm pleased to answer your questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Williams. We have about two and a half minutes or so per side, beginning with Ms. Jones.

Ms. Sylvia Jones: As I understand it, the amendments would give the chief medical officer of health more authority. Were there examples during the H1N1 crisis where directives were not being followed through in a timely manner and, thus, the motivation for this amendment?

Dr. David Williams: As noted in Dr. King's report, the areas of concern dealt mostly with immunization, where we had to carry out our largest mass immunization program in such a way that it was consistent throughout the province—dealing with priority groups first, and going through that process. Knowing that health units had different abilities to respond, it was important that we follow a pattern so as not to confuse the public, those in decision-making and in the media, so that there was consistency and one health unit did not feel different than another.

At times, there was variation carried out because local health units felt that they wanted to proceed in a time fashion that they felt was reasonable. Yet there was a concern to Dr. King that there was a lack of consistency. Thus, there was confusion among Ontarians.

Ms. Sylvia Jones: So there may have been examples where local health authorities acted sooner than when the chief medical officer of health was suggesting the immunizations could take place? Is that the example?

Dr. David Williams: Acting sooner than was consistent with the rest of the provincial partners and the other health units in the province.

Ms. Sylvia Jones: You mentioned that currently, acting medical officers of health don't have to be signed off on by the chief medical officer. Is that correct?

Dr. David Williams: That's correct.

Ms. Sylvia Jones: Today, how many positions of acting medical officer of health are there?

Dr. David Williams: Eight or nine—it's nine, actually.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. Je passe la parole à M^me^ Gélinas.

M^me^ France Gélinas: Continuing on what my colleague just said, we all read the report. We know that there have been challenges with H1N1. Are you absolutely positive that giving power to the chief medical officer of health would have solved—I don't see the link between giving the chief medical officer of health directive-making power and how that would have helped out in the H1N1 rollout that we lived through a year ago.

Dr. David Williams: I think if you look at the context, when we're looking at the directive powers, there is oftentimes consultation with the health units. There is an agreed-upon direction or action, but there may be some medical officers of health who have a different opinion and, unlike the majority of their peers, would like to go in a different direction. At that time, there's a desire by even fellow medical officers of health to ask for the chief medical officer of health to set a standard or a direction that everybody would adhere to to ensure consistency.

The difficulty is, when there isn't consistency, one has to explain, even between one health unit and another, why one is doing something different than your peer next to you, and that often is a matter of confusion to the public, some of which goes across boundaries between health units.

The directive would direct health units to follow a certain timeline for the benefit of giving a consistent provincial response throughout the province.

M^me^ France Gélinas: But it seems to me what that will do is bring some coordination at the communication point, but it's not going to improve public health.

The decisions that are made at the local level are with the intention of improving the public health of the people they serve. It could come at a price where communication is not as clear as we would want, so to me, it seems like we're putting clear, concise, understood communication above quality public health outcomes.

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Dr. David Williams: One of the key things in a public health response when you're dealing with risk, whether it's risk-management assessment—a cornerstone and part of the overall process is risk communication. So one can't separate communications—

The Chair (Mr. Shafiq Qaadri): Regrettablement, madame Gélinas, votre temps est expiré. To the government side. Mrs. Sandals.

Mrs. Liz Sandals: A couple of things. First of all, just a comment, I guess, that I think what we need to do is learn from the past, from H1N1 and SARS, and think about an even bigger event potentially in the future. Do we have the capacity to handle that, and how would we handle it?

It seems to me, even looking back at H1N1 from my perspective in Guelph, that it was often quite confusing because people look at Toronto media and consume

Toronto media, and if that doesn't match what's going on in Guelph, then it's quite confusing to people. I'm sure that Ms. Jones would have sort of the same effect in her riding, where local information isn't necessarily consistent with the media that people are watching.

At any rate, I wanted to just clarify, if I may, because in her question Ms. Jones asked about the following-through of directives. My sense now is that part of the issue here is that the chief medical officer of health doesn't really have the authority to give a directive. There can be consensus and people may follow the consensus, but the CMOH does not in fact have the authority to give a directive. Could you comment on that?

Dr. David Williams: That would be correct. Not only with H1N1 but in supporting other CMOHs in the past there was the same issue: The need for consensus-building was always there, but it does take time, and time doesn't permit to gain a consistent approach, and the power for the CMOH to do that was not and currently is not in the act.

Sometimes it is even the wish of a majority of medical officers of health in the field that there be a stance that would ensure that each of them would carry it out, because it is difficult, having previously been a medical officer of health, to explain why your peer to one side or the other is doing something different in a way that makes sense and yet does not undermine the overall approach.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals, and thank you, Dr. Williams and entourage, for your deputation on behalf of the Ministry of Health and Long-Term Care, Office of the Chief Medical Officer of Health.

ASSOCIATION OF LOCAL PUBLIC HEALTH AGENCIES

The Chair (Mr. Shafiq Qaadri): I now invite the next presenter, the Association of Local Public Health Agencies, to please come forward: Dr. Paul Roumeliotis, chair of the Council of Ontario Medical Officers of Health, and colleague Linda Stewart, executive director. Welcome, and I invite you to please begin now.

Dr. Paul Roumeliotis: Thank you very much. Good afternoon. Bon après-midi. I'd like to thank you for this opportunity for us to comment on Bill 141. My name is Dr. Paul Roumeliotis, medical officer of health of the eastern Ontario health unit and current chair of the Council of Ontario Medical Officers of Health. This is Linda Stewart, executive director of ALPHA, who is with me today.

We understand that this bill has been through a few drafts, and we have had dialogue with the chief medical officer of health and her office about the proposed changes. However, I wish to clarify that public health units were not consulted about the need for an amendment to the HPPA. The need appeared to be a foregone conclusion, and we were asked to comment only on the wording of an amendment that would permit the CMOH to issue directives to medical officers of health and boards of health during an emergency situation, a power that some argue already exists within the current HPPA.

Further, we would like to note that, historically, changes that have been made to the HPPA have occurred only after careful consideration and thorough review of multiple reports and consultations, like SARS. In contrast, Bill 141 was tabled following the recommendations of a single report that has been described by its author as "informal and initial." Despite our requests for a delay of legislative changes until the Ontario H1N1 report was released and to allow medical officers of health, boards of health and other stakeholders time to enter into a robust dialogue, the legislation was tabled.

Basically, we feel that a more comprehensive review of the issues following H1N1 and a meaningful consultation with the field would have led to a clearer understanding of the potential areas for improvement within our public health system. Such a process may indeed have indicated a need for additional CMOH powers, but it may also have indicated alternative approaches and identified additional required modifications that would collectively further enhance and strengthen our public health system's ability to protect the health of all Ontarians, especially during an emergency.

Having said this and given that there is apparent resolve to pass the bill, we're prepared to work with the CMOH office and public health division to contribute to writing the specific regulations, and we would like to make the following comments and suggestions.

As the bill stands now, we welcome the clarification provided in the bill regarding possession of premises for public health purposes. We understand the purpose behind the new approvals required relating to the appointment of acting medical officers of health, but we would ask that special consideration be given to acting medical officers of health who take the position with a commitment to go and get trained. There's a difference between having somebody be there for a couple of months versus somebody that's going to be there for a couple of years and then be a fully appointed medical officer of health.

We are most interested, however, in the sections regarding the chief medical officer of health's rights and responsibilities for issuing directives or orders to public health units across Ontario during an emergency.

Regarding the issues of directives specifically, we've made some suggestions for wording changes that we believe help the bill to be more in keeping with the existing wording in the Health Protection and Promotion Act, and those are detailed in the report that we have submitted to the clerk.

One particular wording change is of utmost importance. This is in the new clause in 77.9. The clause allows for an order to be issued during an emergency and that the policies or measures are necessary to support a co-ordinated response to a situation or to otherwise protect the health of persons.

We are concerned that this clause allows the chief medical officer of health to issue a directive primarily

intended to achieve coordination at the provincial level. The essence of the Health Protection and Promotion Act is to protect the health of our population, and we coordinate, organize and deliver our services with this in mind. While a certain amount of coordination can be important in any public health response to an emergency situation, it may not be the best means to ensure the best possible response throughout the province.

As public health leaders locally, we believe that central directive applications need to be customized according to local needs and circumstances. In fact, this is a great feature of our system. We know from experience that removing the flexibility to tailor centrally developed standards and directions to local circumstances puts emphasis on standardizing an approach at the potential expense of ensuring the best public health outcome. Again, this is our priority.

The difficulty inherent to increasing centralized coordination in the public health system where local autonomy is a cornerstone was illustrated during the H1N1 response. As you know, centralized attempts to standardize the rollout of the H1N1 vaccine with inflexible rules about priority populations resulted in public confusion and local dilemmas for public health agencies. Most importantly, it undermined the local decision-making powers to make the necessary changes and adaptations to procedures to protect the health of the public and to ensure the best public health outcomes locally for the population that we serve. To ensure that a coordinated response does not take precedence over protecting the health of the public, we recommend that the "or" in clause 77.9(1)(b) be changed to "and." This would ensure that central directives can allow for appropriate consultation while ensuring that the health of the public is the foremost consideration.

Finally, the draft legislation allows for terminology, including terms like "public health event," to be defined in the regulations of the act. We strongly recommend that the development of regulations in support of Bill 141 include input from public health practitioners and local public health agencies.

Again, I'd like to thank you for the opportunity for this discussion, and we'd be happy to answer your questions.

The Chair (Mr. Shafiq Qaadri): Thank you. About two minutes or so per side.

M^me^ France Gélinas: I want to make sure that I understood you clearly. With central directives, and that goes with the line of questioning that I had before, do you see a potential where the central directive will make sure that the entire province is coordinated but that will come at the expense of good-quality public health, that you could achieve better quality public health if you had local control versus central directives?

Dr. Paul Roumeliotis: We believe that there has to be a balance struck between the two. We believe that in certain situations, if you were to tell me in my area to deliver a memo to my population in English only, I would not. I would have to wait until it's available in French. That's an example of tailoring it to our needs.

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Northern populations may not be able to deliver a certain service because they have to fly to deliver it, instead of going there within an hour. I do believe that there has to be a balance, and our point really was that we wanted to discuss it. We believe that we have relationships within public health that can work together to develop consensus in terms of a general direction, allowing local flexibility that will enhance the delivery and the needs locally.

M^me^ France Gélinas: Did you see anything in the report that was done for H1N1 that pointed to, "That was the solution"?

Dr. Paul Roumeliotis: Frankly speaking, I don't think that the solution to the H1N1 issue—we have to look at federal-provincial issues. We have to look at decisions made at the federal level that forced us to use priority populations in populous settings. To blame this solely and say that this is going to resolve the problem is not 100% true. I believe that there were issues beyond everybody's control at the federal level, in terms of decisions of ordering the vaccine and vaccine availability, that put extra pressure on us.

I don't believe this is the only solution, and this is why we wanted to be more involved in the discussion, to be able to look at more robust solutions and comprehensive solutions as well, taking into account the complexity of the multi-jurisdictional issues that also played a role.

M^me^ France Gélinas: Aside from what's going on with the public hearings we're having right now, will there be other means for public health units to bring forward real solutions that would have an impact on quality public health?

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. To Ms. Sandals.

Mrs. Liz Sandals: I appreciate you appearing here today. I wonder if we could go back to your comments on the issue around the approval of the acting medical officer of health, because I wasn't really clear about what you were suggesting there.

Dr. Paul Roumeliotis: Yes, sure.

Mrs. Liz Sandals: My understanding was that the way it was currently drafted is that if it is a very short time, then it's up to the local board of health—less than six months. Where it's beyond six months, then it needs to go to the chief medical officer of health, but the chief medical officer of health could include conditions, and that would mesh with the scenario you suggested where somebody is doing educational qualifications.

Dr. Paul Roumeliotis: Yes.

Mrs. Liz Sandals: I wasn't sure—

Dr. Paul Roumeliotis: No, it was a point of clarification. It was a point of agreement, first of all. We agreed in principle. It was just a sort of application; it was more of an application of the amendment. In situations where a medical officer of health signs on and simultaneously gets his or her MPH and becomes fully qualified, that may take a year or a couple of years.

Mrs. Liz Sandals: Exactly.

Dr. Paul Roumeliotis: Just for logistical issues, to re-evaluate that every six months would be a bit redundant and perhaps a waste of time. That's the only thing we're saying.

Mrs. Liz Sandals: So it's just the very narrow frequency of re-evaluation—

Dr. Paul Roumeliotis: Yes, especially for that situation.

Mrs. Liz Sandals: —where you've got the education progressing according to the conditions that have been laid out.

Dr. Paul Roumeliotis: Exactly.

Mrs. Liz Sandals: Okay. Thank you for clarifying that.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Ms. Jones.

Ms. Sylvia Jones: Just a point of clarification: Did you mention at the beginning of your presentation that you were not consulted on the need for the amendments?

Dr. Paul Roumeliotis: No, we were not.

Ms. Sylvia Jones: Knowing that, are you not also concerned about being consulted on the regulations? Because my issue—

Dr. Paul Roumeliotis: Yes, we made that point a number of times. We had four months of deliberations trying to make that point specifically.

Ms. Sylvia Jones: Quite frankly, that is my whole problem with regulations. We don't even get this public consultation when we have regulations pass. There is no discussion, no obligation on behalf of the cabinet to discuss regulation changes or additions before they move forward.

Dr. Paul Roumeliotis: All I know is that I was told, as chair of the medical officer of health, that the report would come out the next day, and that was the extent of the consultation.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Dr. Roumeliotis and Ms. Stewart, for your deputation on behalf of the Association of Local Public Health Agencies.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite Ms. Doris Grinspun, executive director of the RNAO and not a stranger to that desk. Welcome, and I invite you to please begin now.

Ms. Doris Grinspun: Thank you very much. I'm accompanied today by Sara Clemens from our policy department.

RNAO is the professional organization, as some of you may know, for registered nurses who practise in all roles and sectors across Ontario. We appreciate the opportunity to address the Standing Committee on Social Policy on Bill 141.

Nurses are in a unique position to provide feedback on a pandemic response. We are the health professionals who deal directly with members of the public during a pandemic and help coordinate and provide care. Safeguarding the public by preventing the rapid spread of virulent sickness and disease is, without question, a high priority.

At the outset, we want to extend, on behalf of RNAO, our warmest congratulations to the chief medical officer of health, Dr. Arlene King, on her courageous and expert leadership. It served to galvanize the collaboration of health care providers across this province towards a common goal: overcoming H1N1, a new virus that had the potential to be deadly.

RNAO also wishes to salute the thousands of health care professionals, among them nurses—including those who work in public health—who painstakingly developed and revised their pandemic plans and implemented their roles with the utmost professionalism and care. Also—yes, why not?—a colleague, Allison Stuart, who is here and who actually led a lot of on-the-ground communications with her team.

RNAO supports Bill 141 in general. We have several amendments that, if adopted, will strengthen Ontario's emergency public health response and address serious omissions in the legislation.

The province's goal is to improve the response for the next public health emergency by implementing supportive legislation. Our goal is the same. However, the bill addresses only three areas of concern, while many solid recommendations made in various ministry reports and at meetings of the Ontario health plan for an influenza pandemic have not been adopted in this bill: a lost opportunity, at least at this point, in our view.

It is true that Ontario's response to public health emergencies today, including H1N1, is much more robust than what we experienced during SARS, especially in terms of communication, coordination and in seeking the advice of nurses. For someone like me, who lived through both events in the same role and position, the difference in response is like night and day. And yet, we cannot stop at the halfway mark.

The legislation, as it stands, neglects the need for additional surge capacity and fails to clarify the roles and responsibilities for LHINs and primary care providers under the direction of the chief medical officer of health. An integrated system response, which we urgently need, is still eluding us. In light of these gaps, RNAO offers several recommendations, which are detailed in our submission. I'll speak to four of them.

First, RNAO is pleased to endorse the provisions in Bill 141 that would strengthen local leadership within each public health unit, including those that would standardize the qualifications of each medical officer of health. With nine out of 36 public health units currently operating with an acting MOH, it is hoped that this legislation process will result in more consistent, qualified and knowledgeable officers.

A new provincial requirement to have a chief nursing officer in every public health unit by 2013, a progressive step that the RNAO very strongly supports, further

strengthens the growing leadership capacity in public health at the local community level.

Nursing leadership is absolutely essential during a pandemic response, yet this role is not mentioned in this bill. Chief nursing officers are necessary to ensure clear lines of communication within public health units.

While the chain of command for chief medical officers of health will be extended by this bill, there is an assumption that the chief medical officers of health and the medical officer of health understand the full professional competencies and responsibilities of nurses, and public health nurses in particular. Unfortunately, this assumption is not always the case.

Considering that nurses and public health nurses make up half of the human resources in public health, the chief nursing officer role is a strong and welcome step in the right direction. With this new-found capacity, medical officers of health and the chief medical officer of health should plan to use the CNOs to inform planning, strengthen emergency response and facilitate process and outcome evaluations. Integrating chief nursing officers will not cost the government anything and will lead to much better outcomes.

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A chief nursing officer will also be able to clarify for nurses and other professions how nurses may or may not practise within the set scope as set by the College of Nurses of Ontario. This type of clarity is critical in pandemics such as H1N1, when nurses are redeployed out of their usual practice setting. For these reasons, the RNAO urges that the chief nursing officer role be fully integrated in Bill 141.

Our second recommendation relates to planning for the worst-case scenario. It would be nice to think that the world's next pandemic may be similar to H1N1, yet we all know a much more deadly attack looms on the horizon. The question is, are we ready for the worst-case scenario? More powerful directives and better qualifications are not all that is required for coordinating system response. As the chief medical officer of health noted in her report: "The caution is this: Had the pandemic been of a significantly more severe nature, we might not have been as ready. Our acute care system managed, but had many more people swarmed our emergency rooms for much longer, that might very well have tipped the system. In addition, had there been many more deaths early on, the demand for health care services might have overwhelmed an already taxed delivery system."

In developing legislation such as Bill 141 and policies to prepare for the worst-case scenario, the following questions must be asked: How can we strengthen this bill so we can protect the public even if our prevention strategies fail? How will our emergency departments accommodate treatment for thousands more when they're already operating beyond capacity? How will ambulances respond when they are already waiting at hospitals to offload? What surge capacity can you count on when RN positions specifically are being cut and expert nurses are being offered early retirement packages through hospital restructuring processes?

If we address system shortfalls with better surge capacity and stronger coordination of services, we will be able to manage the next emergency. Otherwise, the question mark will remain.

Thus, RNAO recommends the following:

—that the Ontario government build, monitor and strengthen the surge capacity of registered nurses, and public health nurses in particular, by meeting its commitment to increase the nursing workforce by 9,000 additional positions by 2011. Ontario has already added 5,579 nurses during the first two years of the McGuinty government's current mandate. Thus, we are well on our way to achieving the targeted 9,000. We now need to hire 3,421 nurses to meet this target. Given that the Ontario RN-per-population ratio, as compared to the national average, is worrisomely low, requiring in fact 14,000 more RNs in Ontario to catch up to the national average, it is crucial that the remaining more or less 3,500 positions be full-time RNs, specifically registered nurses;

—that the government establish a subcommittee of the Ontario health plan for an influenza pandemic that consists of registered nurses, including public health nurses, ER physicians and ambulance personnel.

The third recommendation we want to address relates to the need for better coordination of LHINs, public health and primary care. All available resources must be mobilized when planning and creating a coordinated system of emergency response. Any local health integration network that is not mandated to include public health services compromises public safety by not being able to respond as effectively to a pandemic threat. It's time that the LHINs were made a formal part of the system by mandating their role and clarifying the direction they receive from the chief medical officer of health, to ensure the most coordinated response when called on.

With the establishment of nurse-practitioner-led clinics across the province—26 are expected to be up and running by September of this year—and the substantial increase in the number of practising primary health care nurse practitioners, RNAO believes that accurate reporting should include nurse practitioners as key primary care providers.

The RNAO recommends the following: create an integrative role and function for LHINs, public health units and primary care providers in their planning, response and evaluation of public health emergencies, while clarifying the chief medical officer of health's chain of command to each; and, include nurse practitioners and NP-led clinics and community health centres within a more integrated, consistent and planned system response to public health emergencies.

Finally, it is crucial that pandemic plans not forget those who are most vulnerable and have difficulty accessing pandemic services. Planning must include drop-ins, shelter-based health services and street outreach services, not just mainstream services such as hospitals and other residential settings. Methods must be found to reliably conduct surveillance and health promotion among vulnerable populations, including the homeless and those who live in shelters.

RNAO has appreciated being involved as a partner in pandemic planning and in the review of the H1N1 response from the outset. That did not happen during SARS; it's happening now.

We offer these recommendations to improve future pandemic responses. Thank you very much for the opportunity to share this with you—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Grinspun. You have about 30 seconds or so, Ms. Sandals.

Mrs. Liz Sandals: Thank you very much for appearing. You've got a whole array of fascinating suggestions here.

Really quickly, can you talk a little bit more about how you see this knotty problem of primary health care and hospitals, LHINs and public health all being linked together from a primary planning perspective?

Ms. Doris Grinspun: First of all, some of us have never fully understood why public health and primary care, with the exception of community health centres, are actually not part of the LHINs. So that's a question in itself that I think is required to outweigh the pros and cons of that. But at the very least, there needs to be ways of coordination—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Ms. Jones.

Ms. Sylvia Jones: With 30 seconds, I will thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Madame Gélinas.

M^me^ France Gélinas: Does that mean I get her 30?

Thank you very much for your presentation, and I will read your complete report.

The bill really focuses on giving the chief medical officer of health more power. I'd like to have your opinion, in your position, as to: Do you think there are other means to the same end? The law right now will give the chief medical officer of health more power so that we can improve coordination in the hope of improving the quality of public health. Do you figure there are other means?

Ms. Doris Grinspun: We don't believe it's one or the other. We believe that a strengthened role for the chief medical officer of health, the local MOHs and the chief nursing officer, which is a role that by 2013 will be in all units, needs absolutely to play a key role—

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas, and thanks to you, Ms. Grinspun and Ms. Clemens, for your deputation on behalf of the RNAO.

If there's no further business before the committee, I just remind committee members that amendments will be filed by the deadline, 12 noon, Thursday, March 24, and we will be reconvening here on Monday, March 28, for clause-by-clause consideration.

Is there any further business before the committee? Seeing none, committee is adjourned.

The committee adjourned at 1649.

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Monday 28 March 2011

Journal des débats (Hansard)

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Standing Committee on Social Policy

Comité permanent de la politique sociale

Health Protection and Promotion Amendment Act, 2011

Loi de 2011 modifiant la Loi sur la protection et la promotion de la santé

Chair: Shafiq Qaadri
Clerk: Trevor Day

Président : Shafiq Qaadri
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 28 March 2011

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 28 mars 2011

The committee met at 1404 in committee room 1.

HEALTH PROTECTION AND PROMOTION AMENDMENT ACT, 2011

LOI DE 2011 MODIFIANT LA LOI SUR LA PROTECTION ET LA PROMOTION DE LA SANTÉ

Consideration of Bill 141, An Act to amend the Health Protection and Promotion Act / Projet de loi 141, Loi modifiant la Loi sur la protection et la promotion de la santé.

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, welcome to the clause-by-clause consideration for Bill 141.

At the outset, just on behalf of the committee, I would like to thank two medical colleagues, Dr. Penny Sutcliffe and Dr. Kieran Moore, who took the time not only to read Hansard, but also to communicate some issues to the committee and to the Chair.

En français, je veux remercier mes deux collègues la D^re^ Penny Sutcliffe et le D^r^ Kieran Moore pour avoir attiré leur attention à ce projet de loi.

Unless there are any general comments, we'll move to clause-by-clause. I would invite Madame Gélinas to commence the presentation of NDP motion 1.

Anterior to that, we'll consider section 1.

No amendments having been received, shall section 1 carry? Carried.

Section 2, NDP motion 1: Madame Gélinas.

M^me^ France Gélinas: I move that the amendments to the Health Protection and Promotion Act in subsection 2(1) of the bill be amended by adding the following subsection:

"Reasonable compensation

"(1.2) Where the minister makes an order under subsection (1) with respect to premises that are municipally owned, the minister must pay fair and reasonable compensation for the use of the premises during the time they are being used for public health purposes."

The Chair (Mr. Shafiq Qaadri): Madame Gélinas, regrettablement, je dois déclarer que votre motion n'est pas à l'ordre. With extreme regret, I have to declare that your motion is not in order, and of course, the issue has to do with the passage of a money motion, which is an extreme violation of standing order 57.

Ms. Sylvia Jones: Not just a violation; an extreme violation?

The Chair (Mr. Shafiq Qaadri): In this week of budgetary concerns, with the provincial budget coming down, yes, I would consider it to be an extreme violation.

Are you satisfied with that?

M^me^ France Gélinas: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll now proceed to—yes, Ms. Sandals?

Mrs. Liz Sandals: I agree with the ruling you've just made. Is there any opportunity for me to comment on the content?

The Chair (Mr. Shafiq Qaadri): I'm advised by the clerk, who very subtly said no.

Mrs. Liz Sandals: Okay.

M^me^ France Gélinas: Can we have unanimous consent that she could make comments? Because I would be interested in hearing them.

The Chair (Mr. Shafiq Qaadri): If it is the will of the committee, then yes, proceed.

Mrs. Liz Sandals: I just wanted to let the committee know, for their information, that sections 77.4(9) and 77.4(10) actually already set out a mechanism by which affected persons can receive fair and reasonable compensation for the use of premises that are subject to the minister's orders. In fact, the existing process in the HPPA is actually more comprehensive than the process that you were trying to put in the amendment. The affected person is entitled to compensation by the crown for the use and occupation of the premises by agreement, and in the absence of an agreement, may actually apply to the OMB for settlement of the dispute.

I just wanted it on the record that that process is already there.

The Chair (Mr. Shafiq Qaadri): Thank you. Further commentary, rebuttals? Madame Gélinas.

M^me^ France Gélinas: What I was trying to get at with this is that although we're talking about public health, a lot of the public health workers will end up not being employees of public health but could very much end up being employees of municipalities themselves. "Can receive compensation" is really different from "will receive fair and reasonable compensation for the use of," so I was trying to bring in more clarity as to, yes, you will receive compensation and the municipality won't be on the hook for insurance, for staff, for not having use of their facilities.

I agree that there is some language in the bill that talks to this, but it does not give certainty to any municipal association that they won't be on the hook for a whole bunch of expenses, not the least of them being malpractice insurance.

The Chair (Mr. Shafiq Qaadri): Further comments? If not, we'll now proceed to PC motion 1.1, in which case I would like to inform my colleagues of the PC side that that presumably is an identical motion.

Mrs. Christine Elliott: It's not quite identical, Mr. Chair, but I understand. It's close enough—

The Chair (Mr. Shafiq Qaadri): Its violation is identical, as it is a money motion, and I would therefore respectfully advise you that it is out of order.

Interjection.

The Chair (Mr. Shafiq Qaadri): But since it is somewhat different, you're allowed to enter it into the record if you wish.

1410

Mrs. Christine Elliott: I move that the following subsection be added to the amendments to the Health Protection and Promotion Act set out in subsection 2(1) of the bill:

"Compensation for municipalities

"(1.2) Where the minister makes an order under subsection (1) with respect to premises that are municipally owned, the minister must pay fair and reasonable compensation for the use of the premises during the time they are being possessed and used for public health purposes."

The Chair (Mr. Shafiq Qaadri): Thank you. Once again, the same advisement. Therefore, PC motion 1.1 is out of order.

We'll now proceed to NDP motion 2: Madame Gélinas.

M^me^ France Gélinas: I move that clause 77.4(3)(b) of the Health Protection and Promotion Act, as set out in subsection 2(2) of the bill, be amended by striking out "the risk of an outbreak" and substituting "the immediate risk of an outbreak".

Do I get to talk to it?

The Chair (Mr. Shafiq Qaadri): The floor is yours.

M^me^ France Gélinas: Basically, what we are trying to do, and you will see that throughout all of the amendments that the NDP is putting forward, is narrow the scope of where the chief medical officer of health can make an order. Basically, we haven't had a good discussion as to what issues should be under local control and what issues should be under provincial coordination.

It wasn't that long ago that we had the G20 summit, and we saw how little pieces of laws that were put out there all of a sudden were used completely out of context, but were used nevertheless. I have worries that taking away the local control of a public health unit could be used in ways that will not improve the public health of Ontarians. You will see that I will put that forward, and this falls into a series of amendments that is coming that will really try to narrow it to the scope of what you have explained you wanted it to do.

I'm not really going against what you've explained you're trying to do; I'm trying to make sure that the language we use is reflective of the aim we're trying to achieve. The suggestion there is to change "the risk of an outbreak" to "the immediate risk of an outbreak" because, frankly, there is risk of an outbreak at any time; we just don't know when. Basically, there could be an outbreak of just about anything any time, and we all know this. Making the language clearer, I think, will lead to better public health.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Ms. Sandals.

Mrs. Liz Sandals: I don't actually see what this has to do with the G20. However, the actual amendment is similar in part to government amendment motion 4, except that our motion does in one thing what NDP motions 2 and 3 take two steps to do. I would just like some insurance from Madame Gélinas that she will also be tabling NDP motion 3.

M^me^ France Gélinas: Yes, I will.

Mrs. Liz Sandals: Okay. So just to go on and speak about it, then, we will support this motion.

This amendment was actually proposed by several key public health stakeholders, in particular, the Association of Municipalities of Ontario, the Association of Local Public Health Agencies and the city of Toronto. Putting "immediate risk" in there would actually bring it into line with the language that is used in a number of other sections within the HPPA, so we're quite happy to support putting in "immediate risk" as opposed to just "risk." We will support this.

The Chair (Mr. Shafiq Qaadri): Fair enough. Any further comments? Ms. Elliott.

Mrs. Christine Elliott: Just a brief comment: We would certainly agree with this amendment as well, in that this is a power which is presumably going to be used very sparingly. Just the use of "immediate" helps to put some boundaries around the times when it might be imposed.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 2? Those opposed? Carried.

Now, PC motion 2.1, I understand, is identical and therefore likely out of order and redundant, so we'll now proceed to NDP motion 3.

M^me^ France Gélinas: I move that clause 77.4(3)(b) of the Health Protection and Promotion Act, as set out in subsection 2(2) of the bill, be amended by striking out "the risk to the health of persons" and substituting "the immediate risk to the health of persons".

Here, again, the series of amendments is to make sure that we narrow the scope where the chief medical officer of health can make an order.

I can't help but say that it also shows how this bill has been rushed through. That we have to come in during clause-by-clause to do that kind of language tightening-up is a little bit unsettling, given the importance of health promotion and protection and given the importance of public health. I'm happy that the government realizes this and is willing to make changes.

I would have much preferred that we had waited for the Ministry of Health and Long-Term Care, as well as Dr. King's report on H1N1, before the government brought those changes forward. I would have much preferred that pressing issues such as the lack of coordination between the LHINs, public health and primary care, which are all issues that were addressed in the H1N1 report, would have also been included. They're not there.

I can't help but think, "How could it be that they're bringing forward a Health Protection and Promotion Act that deals with public health, but yet public health was not consulted and saw this bill at the same time as I and every other Ontarian saw it?"

Anyway, it needs some tightening up in the language, and I hope they will support it.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 3?

Mrs. Liz Sandals: Yes. Just to say that it is true with virtually any report that there are many things that can be done simply by agreeing to do them. There are some things that need to be in one act, some things that need to be in some other act. What is brought forward here are the things coming out of Dr. King's report, which lead to amendments to the HPPA. Those things that require amendments in the HPPA are what's in the act.

We will, however, be supporting this amendment because, once again, it simply adds "immediate" to "risk."

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Christine Elliott: We support this amendment as well.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 3? Opposed? NDP motion 3 carried.

Government motion 4—

Mrs. Liz Sandals: It is now redundant.

The Chair (Mr. Shafiq Qaadri): Now redundant; withdrawn.

We proceed to NDP motion 5.

M^me^ France Gélinas: I move that clause 77.4(6)(b) of the Health Protection and Promotion Act, as set out in subsection 2(3) of the bill, be amended by striking out "risk" and substituting "immediate risk".

The idea behind this, again, is to make sure that there must be an immediate risk to public health before we give the chief medical officer of health the power to make an order.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 5?

Mrs. Liz Sandals: This is identical to government motion 6, so we will be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mrs. Christine Elliott: We concur. We've also submitted the same motion.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 5? Opposed? NDP motion 5 carried.

Government motion 6 and PC motion 6.1 are identical, redundant, withdrawn, annihilated.

Shall section 2 carry, as amended? Carried? Carried.

Section 3, NDP motion 7.

M^me^ France Gélinas: I move that subsection 77.9(1) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by adding "on reasonable and probable grounds" after "of the opinion" in the portion before clause (a).

1420

Basically, by adding "on reasonable and probable grounds" as a requirement of evidence for the chief medical officer of health to issue a directive to a medical officer of health or a board of health, here again we narrow the opportunities to use such a directive as well as follow what has been explained to us as to the intent of this bill. I don't think it takes away the intent of the bill; it just makes it clearer so that it cannot be used in years to come for intents other than what the government had intended.

The Chair (Mr. Shafiq Qaadri): Thank you. NDP motion 7: Commentary? Ms. Sandals.

Mrs. Liz Sandals: We will not be supporting this amendment. As the people here are aware, the CMOH already has the power under other sections of the bill to issue directives to health care providers and health care entities. This is adding the power to issue directives to boards of health and medical officers of health.

The terminology that is suggested here, adding "on reasonable and probable grounds," is not in the other existing clauses. We think, in fact, it would add confusion to have people dissecting why one is stated one way and the other power to give directives stated in a different way when people try to unfold the act and the intent in later years.

So we will not be supporting this because we believe it actually causes confusion, not clarity.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Ms. Elliott.

Mrs. Christine Elliott: Though we understand the intent behind the amendment, unfortunately we won't be able to support it either on the grounds that it can perhaps be more confusing and could maybe cause some difficulties in making a decision where there's a need for immediacy—that it might get bogged down in a discussion as to what are reasonable and probable grounds. Presumably, the person making the decision in the first place is doing it on reasonable and probable grounds, or it wouldn't be done.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott.

Those in favour of NDP motion 7? Those opposed?

M^me^ France Gélinas: Recorded vote, please.

Ayes

Gélinas.

Nays

Dhillon, Elliott, Jaczek, Johnson, Jones, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 7 defeated.

NDP motion 8.

M^me^ France Gélinas: I move that clause 77.9(1)(a) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by striking out "a provincial, national or international public health event".

Basically, this has to do with the definition of the term "public health event." It is not a term that is currently defined in the Health Protection and Promotion Act. Basically, it is a term that is used a whole lot; you can Google any search engine that you want and put in "public health event," and you will see everything from a conference, an education day, a meeting—basically anything that public health does is a public health event. Furthermore, it is an unnecessary addition to the bill, as there are already provisions given where a chief medical officer of health can issue a directive.

This is the kind of issue where the ministry should have sat down with ALPHA, they should have sat with the public health units themselves, to go over this bill before they introduced it. It always feels really weird to me that we have a public health bill and yet we have representatives from public health telling us that they knew nothing about this bill, they were not consulted. Here, they now have to live with the consequences of it and, frankly, they have some reservation.

To take out "a provincial, national or international public health event," in my view, will make the bill cleaner, crisper and easier for everybody to understand, while still moving in the direction of what the intent of the minister and the ministry is.

To keep it as is—basically the ability, or the possibility, to expand the scope of the application of the bill would be there. I don't think that would be wise, because an international public health event could very well be an international conference, and I don't think that should trigger taking power away from the local public health unit.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 8? Ms. Sandals?

Mrs. Liz Sandals: If one reads the clause which this amendment proposes to amend, and reads it as if this amendment were accepted, it would end up saying "that there exists, or there is an immediate risk of, a pandemic or an emergency with health impacts anywhere in Ontario." In other words, it would explicitly remove the right of the CMOH to deal with some sort of health hazard, health emergency, which is currently occurring outside of Ontario but which, it is obvious, is going to have health impacts inside Ontario.

Let's use a couple of examples. Let's suppose that there was some sort of chemical explosion south of Buffalo, for the sake of argument, and that it's quite clear that the toxic cloud is headed towards Ontario. I want the chief medical officer of health to be able to very quickly work with the medical officers of health and get out a directive that says, "This is how we're going to manage in the various jurisdictions of Ontario when the toxic cloud arrives."

Another example: Half of Ontario goes to Florida for March break. There is some sort of highly contagious epidemic going around in Florida. Everybody's coming back to Ontario to a whole bunch of different jurisdictions for public health units within Ontario. I want the chief medical officer of health to be able to prepare for a coordinated response as all sorts of people who might have been infected, or who are infected, are returning to Ontario.

Quite frankly, I don't know what ALPHA was thinking when it suggested this, because to me it just doesn't make sense that we would deliberately bar the chief medical officer of health from anticipating when really bad health impacts can come from beyond our borders.

In fact, one of the things that Dr. King talked about in her H1N1 report was the fact that particularly the Toronto area, because it's such an international travel hub, is highly susceptible to international health risks.

So we absolutely will not be accepting this particular amendment. It just totally destroys the intent of what we're trying to do here.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 8? Ms. Elliott, then Madame Gélinas.

Mrs. Christine Elliott: Unfortunately, we also will be unable to support this amendment, on the basis that we don't want to cut back on any powers and responsibilities that the chief medical officer of health might have, and to undercut his or her ability to deal with international situations.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott. Madame Gélinas?

M^me^ France Gélinas: I think we're starting to see where we differ and, I guess, why we voted against this bill in second reading; that is, the examples you gave are all very good examples of where we need our public health, but they're all very good examples of where we need our local public health unit to take action.

The two examples you've just given—the people returning from Florida and some kind of clouds of environmental toxins coming over—those particular health units that are close to Buffalo, those particular health units that have a lot of travelers, are the ones who know best how to protect the health of the people within their geographical area. To think that we need the chief medical officer of health to come and tell the public health units, which are the ones that connect the most with and the ones that work day in and day out with those populations—this is where the Liberal government and the NDP differ. The balance there, to me, has not been explored enough.

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The way your public health units function in Ontario is a jewel because of their ability to adapt to the local circumstances, because of their ability to work things out until they have a consensus and they're ready to move forward.

I fully agree that there are public health emergencies that require quick manoeuvring and quick movement, but to say that because it comes from abroad, because it comes from Buffalo, suddenly the chief medical officer of health is in a better position than the local medical

officer of health—I disagree with you. I disagree with this.

The right balance has not been found. To take away the power of a local health unit and to give it an overseeing power from the provincial chief medical officer of health—this is something new to public health in Ontario. This is something that has not been thought out properly, and this is something that will be ill-defined in the bill that we are working on right now.

I agree with the two examples you've given us. They are good examples of public health emergencies where our medical officers of health, locally, have trained, are prepared and will do a bang-on response, and they don't need the chief medical officer of health to tell them what to do.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Liz Sandals: I guess, perhaps, because I live within an hour of the border, if there's a toxic cloud headed our way from outside of the country, I don't want half a dozen different groups of people coming up with half a dozen different responses. I want all the best scientists in Ontario to work with the chief medical officer of health to find the best response, and to get it out there. That doesn't mean that there need to be directives issued to people who aren't in the way.

This legislation allows the chief medical officer of health to selectively issue directives to the public health units, which are actually affected, but I certainly want a coordinated response, rather than having five getting it right and the sixth getting it wrong.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of NDP motion 8—recorded, Ms. Gélinas or no?

M^me^ France Gélinas: Sure. Good idea.

Le Président (M. Shafiq Qaadri): Merci pour votre soutien.

Ayes

Gélinas.

Nays

Dhillon, Elliott, Jaczek, Johnson, Jones, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 8 defeated.

NDP motion 9.

M^me^ France Gélinas: I move that clause 77.9(1)(b) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by striking out "or to otherwise" and substituting "and to otherwise".

Basically, the reason for this is to ensure that the chief medical officer of health's directive can only be issued if it is necessary to coordinate an emergency response and to protect the health of persons. Currently, the clause allows for either of these incidents, basically. If either one of them is there, the chief medical officer of health could issue a directive.

I would, here again, tend to say that I would much rather that everybody comes and puts their shoulders to the wheel when there is a public health emergency, pandemic or whatever else.

Only when you use the leadership, the skills and the knowledge of everyone in public health will we end up with the best health outcomes for the people of Ontario. You do this by setting a system where people have to collaborate together, people have to feel engaged. This is how we will get the best outcome—by bringing forward more and more opportunity to dictate to local public health.

To me, if we have to issue a directive, it's because the local public health unit did not agree, so there's basically—to me, this is what would bring forward those directives. We have everything to lose by going down this route without really thinking it through: It has to be needed to protect the health of the person and because we need coordination of an emergency response, both of them together. It brings people together. It allows all of the expertise to be for the benefit of the health of the people of Ontario.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 9? Ms. Sandals.

Mrs. Liz Sandals: I guess this is where the computer science person in me clicks in and has to note that clause (b) has to be read together with clause (a). That is, it says that clause (a) and clause (b) must be true in the act.

Let's put them together and see what the act says, the way it is currently structured. It says that the CMOH may issue a directive if the CMOH "is of the opinion that,

"(a) there exists, or there is an immediate risk of, a provincial, national or international public health event, a pandemic or an emergency with health impacts anywhere in Ontario; and

"(b) that the policies or measures are necessary to support a coordinated response...."

So that's one circumstance under which the CMOH could issue a directive, which seems to me that in and of itself, that is quite a rigorous description of some sort of a health emergency.

Or there's another description: "(a) there exists, or there is an immediate risk of a provincial, national or international public health event, a pandemic or an emergency with health impacts anywhere in Ontario; and

"(b) that the policies or measures are necessary ... to otherwise protect the health of persons." Again, that in and of itself is quite a rigorous standard.

So while it is true it says this standard or that standard, when you read it as a whole, with the precursor in clause (a) which already sets up a standard, there are two rigorous standards here. We think that each of those standards, in and of itself, is sufficient for the CMOH to issue a directive and that we do need to give the CMOH some flexibility.

We will not be supporting the amendment.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments to NDP motion 9? Mrs. Elliott.

Mrs. Christine Elliott: We believe that they do need to be read together, so we would support this amendment, having put forward an identical amendment right behind it.

The Chair (Mr. Shafiq Qaadri): Thank you. If we're ready to vote—unless there's further comments? Madame Gélinas.

M^me^ France Gélinas: I've tried to make changes to the first clause that was read. I really want people to realize that, many years down from now, when we're not around anymore to remember what we were trying to do, those laws will still be there. A public health event won't be defined and the need for coordination will override the knowledge, skills and resources of a local health unit that has this relationship with the people who they're trying to protect who have worked with them. All of a sudden, all you need is a need for coordination, and then best practice for entire populations will be put aside because of the need to coordinate.

It's a question of balance, and I think we would have the best balance to achieve the best-quality public health outcome if we link the two together. Think about it: It needs to be coordinated to protect the health of persons. It's not a big step, but to have it there alone, that is, "You can issue directives just on the basis of needing to coordinate even though it doesn't protect the health of persons," that opens all sorts of doors.

I think we would have a much stronger, better bill if we changed the "or" for an "and."

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The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote.

M^me^ France Gélinas: Recorded.

Ayes

Elliott, Gélinas, Jones.

Nays

Dhillon, Jaczek, Johnson, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 9 is defeated.

PC motion 9.1 is out of order, as it is identical with NDP motion 9.

We'll proceed now to NDP motion 10.

M^me^ France Gélinas: I move that clause 77.9(1)(b) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by striking out "to otherwise protect the health of persons" and substituting "to otherwise prevent, eliminate or decrease the risk to the health of persons in Ontario".

Basically, this is put forward to ensure consistency with the language already used in the Health Protection and Promotion Act.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 10?

Mrs. Liz Sandals: Well, simply, we do not believe that it clarifies it, because it's different from the wording elsewhere in this section. So again, it seems to introduce another level of ambiguity.

The Chair (Mr. Shafiq Qaadri): Comments?

Mrs. Christine Elliott: We would support this motion on the basis that, again, it does provide more consistency with the existing language and gives a bit more certainty.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote, then.

M^me^ France Gélinas: Recorded.

The Chair (Mr. Shafiq Qaadri): Recorded. Un vote enregistré pour motion 10.

Ayes

Elliott, Gélinas, Jones.

Nays

Dhillon, Jaczek, Johnson, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 10 defeated.

PC motion 10.1 is out of order, as it is identical, as I understand.

We'll proceed now to NDP motion 11.

M^me^ France Gélinas: I move that clause 77.9(2)(b) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be struck out and the following substituted:

"(b) health hazards;"

Basically, here again, I tried to narrow the interpretation of the proposed amendment to the Health Protection and Promotion Act and ensure consistency with the language of the act. I'll leave it at that for now.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 11?

Mrs. Liz Sandals: Yes. As far as we can see, this has the same effect as government motion 12. Although the wording is slightly different, it seems to have the same effect, so we will support this motion. I would agree with my colleague from the NDP that the term "health hazards" is already used elsewhere in the HPPA, so in fact it will improve the clarity to use a term which is already defined.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Further comments?

Mrs. Christine Elliott: We agree that this is substantially in the same form as an amendment which we have dealing with the same issues, so we will also be supporting it.

The Chair (Mr. Shafiq Qaadri): Now, as Chair I'm happy to proceed with the vote on NDP motion 11, particularly since we have all-party support. I just invite you to have a look at—it seems that government motion 12 and PC motion 12.1, I think, are perhaps a little bit

more detailed. Perhaps there's a little bit more text there. So I just invite—since we're likely going to pass at least one of these motions from one of said parties, which would you like?

Mrs. Liz Sandals: Chair, could we ask legislative counsel just to comment on our conclusion that in the end, they achieve the same thing? As long as they do, we'll hold on to the first one up.

The Chair (Mr. Shafiq Qaadri): Sure. I will allow legislative counsel to do so. The clerk is reinforcing that we do have NDP motion 11 in front of us now, so before we proceed to that vote I will allow legislative counsel, but we do need to clear up NDP motion 11.

Mr. Ralph Armstrong: Ralph Armstrong, legislative counsel. It's just a drafting choice. They are all identical on the ground.

Mrs. Liz Sandals: So we can pass this one.

The Chair (Mr. Shafiq Qaadri): Fair enough. Those in favour of NDP motion 11? Those opposed? NDP motion 11 carried.

I understand, essentially, that 12 and 12.1 are out of order as they're more or less identical.

NDP motion 13.

M^me^ France Gélinas: I move that clause 77.9(2)(d) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be struck out.

Basically, it is to remove the ability of the chief medical officer of health to issue a directive for a matter prescribed in regulation made by the minister.

We all know that regulation is something that nobody gets to see except for the members of the government before they are made. I think it is in line with our general position that the minister should not have carte blanche in terms of deciding when the chief medical officer of health can intervene. To have language like this in a bill is not going to serve the people of Ontario well. Let's have a clean, tight bill that says, "Here. We are giving our chief medical officer of health a new power of co-ordination when it is needed." But to have a matter prescribed in regulation by the minister is just too broad.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas, I just want to confirm: You were reading NDP motion 13, correct?

M^me^ France Gélinas: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Ms. Sandals.

Mrs. Liz Sandals: Yes. What we're trying to achieve with this motion is to get in front of new and emerging issues. If you look at what we've done historically, we have an ice storm, and then we amend the emergency measures act to deal with an ice storm after the fact. Then we have SARS, and we amend HPPA to deal with it after the fact. Then we have a blackout, and we amend the emergency measures act to deal with it after the fact. Then we have H1N1, and we amend the act to deal with things after the event.

At some point, we need to have the confidence in people like the chief medical officer of health of the province of Ontario to identify new threats that we haven't thought of before as being provincial health emergencies and to actually have the authority to get in front of it. The only thing that is certain in health emergency management is that new health emergencies will arise that we haven't thought of yet. This allows us to finally try to get in front of it.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Christine Elliott: Normally, we would like to see as much as possible be placed in the bill itself and not be left to regulation, but I would agree with Ms. Sandals that there are some scenarios that we can't even contemplate right now, so I do believe we need to have the flexibility to be able to deal with them, particularly in an emergency situation. Unfortunately, we won't be able to support this amendment.

The Chair (Mr. Shafiq Qaadri): Any further comments? We'll proceed, then, to the vote.

M^me^ France Gélinas: Recorded vote.

Ayes

Gélinas.

Nays

Elliott, Jaczek, Johnson, Jones, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 13 defeated.

PC motion 13.1, Ms. Elliott.

Mrs. Christine Elliott: I move that section 77.9 of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by adding the following subsection:

"Chief nursing officers

"(10) In acting under this section, and generally under this act, chief nursing officers shall be used in every public health unit to inform community and region-based planning, strengthen emergency response, increase buy-in and facilitate evaluation."

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Christine Elliott: The reason that this was included was at the request of the RNAO, who presented the view that many of these public health scenarios need to be dealt with by nurses on the ground, so it would be helpful to have a chief nursing officer to coordinate the response.

The Chair (Mr. Shafiq Qaadri): Further comments? Madame Gélinas.

M^me^ France Gélinas: I was quite surprised when I heard about the position of chief nursing officer in public health units. I have, since then, gone on to the website and seen that they were there, but until Doris Grinspun, the executive director of RNAO came, I had never heard of such a position. I'm quite intrigued and interested. I know very little about it, but it sounds like a good idea to me.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: We will not be supporting this, not because we don't support the concept but because we need to think about this a little bit more carefully because it is a relatively new concept, the concept of chief nursing officer.

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Certainly, the government does strongly support having nursing leadership in health organizations, including public health units, and we're actually taking action to ensure implementation of nursing leadership positions—I don't know what they'll be called—in all 36 Ontario public health units. The target is January 2013.

The reason that we think it's premature to put it in the legislation, and we're looking at January 2013, is, in fact, that a working group is being established in collaboration with RNAO and the Association of Nursing Directors and Supervisors in Ontario Official Health Agencies. The working group will be mandated to identify and recommend roles and responsibilities of chief nursing officers or equivalent nursing leadership positions in the public health context and, obviously, in others as well.

So we need to do that consultation with our stakeholder organizations and get this chief nursing officer role and mandate and the more appropriate detailed language worked out before we actually go amending the HPPA.

The Chair (Mr. Shafiq Qaadri): Any further comments on this particular motion, PC motion 13.1?

Seeing none, we'll proceed to the vote.

Mrs. Christine Elliott: Recorded vote.

Ayes

Elliott, Gélinas, Jones.

Nays

Jaczek, Johnson, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): PC motion 13.1 is defeated.

Shall section 3, as amended, carry? Carried.

Section 4, government motion 14: Ms. Sandals.

Mrs. Liz Sandals: I move that section 4 of the bill be amended by adding the following subsection:

"(0.1) Subsection 95(1) of the act is amended by adding 'or of a municipality' after 'an employee of a board of health'."

Let me explain what's going on here, if I may. If you look at section 4 of the bill, it deals with section 95, and section 95 of the health protection act deals with protection from personal liability.

The amendment that is currently there just makes sure that the directives that the CMOH will be issuing, possibly, are covered from the protection from personal liability.

Another issue which has been raised by the city of Toronto, but we understand that the same situation occurs in some of the other regional boards of health, is that the way that section 95 is currently worded, it talks about protecting from personal liability the employees of boards of health. It happens in some of the municipalities, like the city of Toronto and some of the regional municipalities, that the people who work for the board of health are actually, technically, employees of the municipality, and you could therefore make an argument they're outside of the protection from personal liability.

We just want to make it absolutely clear that in those cases, where the board of health employees may be direct employees of municipalities as opposed to direct employees of boards of health, that they are, in fact, covered by protection from personal liability.

This is something that we're including at the request of some of those municipalities that have that particular technical concern about the wording.

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 14?

Mrs. Christine Elliott: Unfortunately, we won't be able to support this amendment on the basis, basically, that it's redundant. There already is that coverage there.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^me^ France Gélinas: I am still not sure I fully understand what this—I think I understand what it is trying to do. I'm not sure I agree that what we're doing will achieve that. Can anybody help me?

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Is help available?

Mrs. Liz Sandals: I can read you what the amended clause will say. Would that be helpful? Or at least part of the amended clause.

"No action or other proceeding for damages or otherwise shall be instituted against the chief medical officer of health or an associate chief medical officer of health, a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector or an employee of a board of health" and we're adding, "or of a municipality." It will be, "an employee of a board of health or of a municipality"—it goes on at the end of all that long list—"who is working under the direction of a medical officer of health for any act done in good faith in the execution or the intended execution of any duty or power under this act," blah, blah, blah, blah. Okay? You don't need the "blah, blah, blah, blah."

M^me^ France Gélinas: No. Thank you.

Mrs. Liz Sandals: Does that help you understand what the intent is?

M^me^ France Gélinas: Yes, it does.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Just an extra challenge for Hansard there, but in any case—

Mrs. Liz Sandals: That's spelled b-l-a-h.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments on government motion 14? We'll proceed then to the vote. Those in favour of government motion 14? Opposed? Government motion 14 carries.

Shall section 4, as amended, carry? Carried.

Section 5, government motion 15.

Mrs. Liz Sandals: This is now housekeeping

I move that clause 97(c) of the Health Protection and Promotion Act, as set out in section 5 of the bill, be amended by striking out "environmental health".

This is the clause where it sets out the authority to define. Seeing as we struck out the words "environmental health," we no longer need the authority to define them. We replaced them with "health hazard," and "health hazard" is already defined.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments?

Mrs. Christine Elliott: We agree with this amendment for the reasons stated by Ms. Sandals.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments?

M^me^ France Gélinas: I have no problem with the amendment.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. Those in favour of government motion 15? Opposed? Motion 15 carried.

Shall section 5, as amended, carry? Carried.

Having received no amendments to date on sections 6, 7 and 8 inclusive, if it's the will of the committee we can entertain the vote on all three sections simultaneously. Shall sections 6, 7 and 8 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 141, as amended, carry? Carried.

Shall I report the bill to the House, as amended? Carried.

Is there any further business before this committee? I thank you for your relatively good cheer and plausible fellowship. Thank you. Committee adjourned.

The committee adjourned at 1458.

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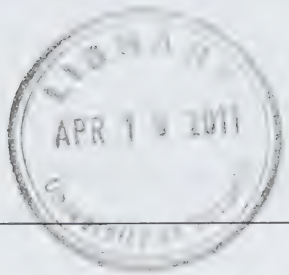

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Deuxième session, 39e législature

Official Report of Debates (Hansard)

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Journal des débats (Hansard)

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Standing Committee on Social Policy

Comité permanent de la politique sociale

Occupational Health and Safety Statute Law Amendment Act, 2011

Loi de 2011 modifiant des lois en ce qui concerne la santé et la sécurité au travail

Chair: Shafiq Qaadri
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Président : Shafiq Qaadri
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Monday 11 April 2011

Lundi 11 avril 2011

The committee met at 1404 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Chers collègues, bienvenue et bonjour. Welcome to the members of the standing committee and members of the Ontario public who have come forward to testify today on behalf of Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters.

Before we begin our presentations, I will invite a member of the committee to please enter into the record the subcommittee report, for which purpose I will call upon the honourable Paul Miller.

Mr. Paul Miller: Report of the subcommittee on committee business: Your subcommittee on committee business met on Friday, April 1, and Tuesday, April 5, 2011, to consider the method of proceeding on Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters, and recommends the following:

(1) That the committee meet in Toronto for the purpose of holding public hearings on April 11, 12 and 18, 2011.

(2) That the clerk of the committee, with the authority of the Chair, place an advertisement for one day regarding public hearings in the Globe and Mail (Ontario edition), the Toronto Star, the Hamilton Spectator, the Windsor Star, the Sudbury Star and L'Express (if possible).

(3) That the clerk of the committee post information regarding public hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(4) That interested people who wish to be considered to make an oral presentation on Bill 160 contact the clerk of the committee by Thursday, April 7, 2011, at 12 noon.

(5) That, in the event that all witnesses cannot be scheduled, the committee clerk provide the members of the subcommittee with a list of requests to appear.

(6) That the members of the subcommittee prioritize and return the list of requests to appear by 5 p.m. on Thursday, April 7, 2011.

(7) That groups and individuals be offered 10 minutes for their presentation. This time is to include questions from committee members.

(8) That legislative research provide background material to committee members.

(9) That the deadline for written submissions be Tuesday, April 18, 2011, at 5 p.m.

(10) That legislative research provide a summary of presentations.

(11) That, for administrative purposes, the deadline for filing amendments to the bill with the clerk of the committee be Friday, April 29, 2011, at 3 p.m.

(12) That clause-by-clause consideration of the bill be scheduled for Tuesday, May 3, 2011.

(13) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

That's the end of the subcommittee report.

The Chair (Mr. Shafiq Qaadri): Are there any comments, questions, queries? May I take it, then, that the subcommittee report is adopted as read?

Mr. Paul Miller: I'll move that.

The Chair (Mr. Shafiq Qaadri): Thank you. Adopted as read.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 2011

LOI DE 2011 MODIFIANT DES LOIS EN CE QUI CONCERNE LA SANTÉ ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters / Projet de loi 160, Loi modifiant la Loi sur la santé et la sécurité au travail et la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail en ce qui concerne la santé et la sécurité au travail et d'autres questions.

The Chair (Mr. Shafiq Qaadri): I will now move immediately, then, to our presenters for the day. Just to remind everyone and to re-remind committee members, you'll have 10 minutes in which to make your presentation, and as is always the tradition here, that will be enforced with military precision. Any time remaining

within that will be distributed evenly amongst the parties for questions and comments.

CANADIAN AUTO WORKERS' UNION, LOCAL 707

The Chair (Mr. Shafiq Qaadri): I now invite Mr. Mesic of the CAW health and safety committee. Mr. Mesic, your official time begins now.

Mr. Emil Mesic: Good afternoon, everyone. Thank you for allowing me to speak today. As indicated, my name is Emil Mesic; I am the CAW Local 707 union health and safety representative and joint health and safety committee co-chair at the Ford assembly plant in Oakville known as the Oakville Assembly Complex.

In the plant, I represent close to 3,000 workers, both production and skilled trades, and I am a full-time representative. I've been doing this job since 2002 in a full-time capacity and 1996 in a part-time capacity. I am also a workers' health and safety centre instructor and recently a CRSP.

The bill, as you know, has the potential to greatly affect workplace safety in Ontario as it amends the Occupational Health and Safety Act. There are a number of issues I'd like to briefly discuss that I think are important for us to hear about, at least for the committee to ponder upon and listen to for a little bit.

The first thing is the politicization of health and safety. This government has been known, I know, to build bridges through discussion. The Tony Dean report and hearings were a very good example of the government going around and listening to the concerns of the different workplace parties in Ontario. But we do know that governments can change. We have been witness to the changes that have happened over the last decade and a half or two decades, from an NDP to a Conservative to a Liberal government as we have today.

Mr. Ted McMeekin: Pretty scary.

Mr. Emil Mesic: Yes.

The truth is that the office of the chief prevention officer and that of the council should be independent because of the potential for governments to come into play that may not have the same focus of building bridges with the community as the one that we have today.

Mr. Paul Miller: Mr. Chair, just a comment.

The Chair (Mr. Shafiq Qaadri): Mr. Miller, you are invited to comment afterward, if possible, please.

Mr. Paul Miller: Okay. A point of order: Can we just keep it to non-partisan? I'd appreciate that.

The Chair (Mr. Shafiq Qaadri): Mr. Miller, that's not a point of order. The individuals of Ontario are allowed to say, within reason, almost anything that they would care to. In this day and age of other folks attempting to control debates and public access, I would invite us to be somewhat different.

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Please continue. I've just added 30 seconds to your time.

Mr. Emil Mesic: Thank you—that being my point on the politicization of the health and safety system.

As a workers' health and safety instructor—I have been one since 1996—I'd like to mention the concern regarding the independence of the Workers Health and Safety Centre and the importance of protecting this very important safe work association.

The Workers Health and Safety Centre is very important in that it provides services in a special way. It provides information specifically—it does to all parties, but specifically to workers. The format of the system, where workers are training workers, is an excellent resource for those worker members of joint health and safety committees who might not necessarily have the same access to information as other members who work for the employer.

Certainly in my days as an instructor for the workers centre, there have been many conferences and training that I have attended that give you a worker's perspective, because one could probably imagine that when it comes to an issue like workplace safety, there are many different avenues of approach to resolving issues. It's important that workers do have this availability, through the workers' centre, to have a voice and to have training done in a way that will help them do their job properly.

I can say that in my own respect, working for a large corporation with very significant and advanced safety systems in the plants that we work in at Ford in Oakville, for example, we don't always come from the same perspective. Quite often you'll have an issue where management's and the union's positions are diametrically opposed. Sometimes the hazard doesn't get looked at; the worker gets looked at.

Without getting into a huge diatribe as to the philosophy of resolving these issues, I must say that the Workers Health and Safety Centre is extremely important, and we need to make sure that it's protected within the new law that's coming up.

Also, just my final point—and I'll be brief, again. The notion of reprisal is one that's very important. I'm sure that other members today will be talking about reprisals. I don't think that the current legislation, as it's going to be presented, does enough to protect workers from reprisal. Again, coming from my own experience, we, on a daily basis, need to ensure that workers understand that they have one of these basic rights, which is the right to refuse unsafe work. Although this right is enshrined in our collective agreements, and there was some discussion about it being changed years ago, we still do have it today. But the truth of the matter is that many people are still afraid to invoke that right for fear of reprisal or retribution. Even in unionized environments this is the case, in some cases. We do investigate these cases from time to time in our own plant, and we have had the Ministry of Labour come in and do investigations on reprisals in our own plant, to the benefit of the worker, actually, through the investigation.

I think that we need to strengthen the law on reprisals and give inspectors the ability to make decisions without

having to refer them to the OLRB, which is a very time-consuming process.

Those would be my major points. I don't wish to discuss very many other things, other than I'd like to thank you for this opportunity, and if you have any questions, I'd be happy to answer them.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Mesic. We have about a minute per side, beginning with the PC caucus. Ms. Jones.

Ms. Sylvia Jones: Thank you, Mr. Mesic. You raised concerns about the thought that the committee may become politicized. Do you have an alternative proposal? Do you want it to stay the way it is? Do you have another alternative? Can you share your thoughts?

Mr. Emil Mesic: Yes. I think that it would be worthwhile to make sure that the chief prevention officer and the safety committee that comes across stay at arm's length from the minister in some sort of way so that it doesn't become—that it becomes a little insulated from the process.

Ms. Sylvia Jones: So a separate board.

Mr. Emil Mesic: Yes, something similar to that.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Miller.

Mr. Paul Miller: In reference to your politicized statement, you kind of indicated that you have a good rapport with the present government on safety and health, and that possibly the other two parties might not be as up front with you as possible. Is that what you were kind of—

Mr. Emil Mesic: No, sir. I didn't say I have a good relationship with the government. I said that the government, in my opinion, has been building bridges, and I thought the Tony Dean hearings that were going on across Ontario were a good indication of that. I didn't say that the other two wouldn't do a good job. I just indicated that things could change, the operative word being "could," based on different governments.

Mr. Paul Miller: Well, I'm not quite sure—it's kind of a shrouded message, but okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. To the government side. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: First of all, Mr. Mesic, thank you for appearing here today. Your comments are very important to us.

With respect to politicization, the bill requires that the minister is the ultimate person responsible. Any comments on the fact that that would be the way this would work?

Mr. Emil Mesic: I understand that the Minister of Labour is ultimately responsible for health and safety in Ontario, and I do respect that. That's the due process that we do have in the system.

I just think that we need to make sure that the rights are enshrined in such a way that they're more difficult to change, per se. The process being what it is, if there is due course, it has to happen to change the act. But I guess the message I want to get across is that we have to make sure that this chief prevention officer and those who work with him on the council are protected and can work without having to look over their shoulders, per se, in terms of the work that needs to get done.

Mr. Lorenzo Berardinetti: Excellent point. Thank you.

The Chair (Mr. Shafiq Qaadri): Grazie, Señor Berardinetti. Thanks to you, Monsieur Mesic, for your deputation and deposition on behalf of the CAW.

Mr. Emil Mesic: Thank you.

NONVIOLENT OBLIGATION IN THE WORKPLACE FOUNDATION

The Chair (Mr. Shafiq Qaadri): I invite our next presenter to please come forward: Ms. Lanspeary, the founder and CEO of the Nonviolent Obligation in the Workplace (NOW) Foundation. Welcome, Ms. Lanspeary. I'd invite you to please be seated and please officially begin now.

Ms. Janet Lanspeary: Good afternoon. My name is Janet Lanspeary. I'm the founding director of Nonviolent Obligation in the Workplace, from Windsor, Ontario.

On behalf of the Nonviolent Obligation in the Workplace Foundation, I would like to thank the Honourable C. Sousa, Minister of Labour; the expert panel established to provide recommendations on Bill 160; the Standing Committee on Social Policy; the victims of workplace violence; employers and unions; and everyone who has participated in the journey of Bill 160's creation of healthier Ontario workplaces.

I'd like to read an email that I received from an individual who was concerned about a friend who was currently going through workplace violence. The email read: "I am writing to you in order to find more information about NOW and see if you or your organization can assist in seeking rights for a new Canadian who has been the victim of several assaults by a co-worker and action taken by her company when she asked to be kept safe." This is just an example of what some Canadians go through on a daily basis, being in a situation where they're frightened, where they've gone to their employer, where they've asked to be kept safe. Unfortunately, they continue to be the victims of assaults by co-workers in the workplace. I've heard many similar stories like this. Oftentimes, these victims end up without any justice.

As founding director of NOW Foundation in 2008, and creator of the concept of a non-violent obligation in the workplace in 2005, I have a unique interest and expertise in non-violent governance within Ontario workplaces. I developed the concept of non-violent obligation in the workplace as a response to personally witnessing and experiencing workplace violence. As a result of my experience with workplace violence, I ended up with post-traumatic stress disorder.

Basically, I was battered in the workplace, and there was really, at that time, no recourse and no justice.

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I know I'm not alone in this. I've spoken to many professionals that have gone through the same thing, and this

is why NOW Foundation is so pleased that Bill 160 has come forward, that there are measures being put in place, that there are steps being taken; and we're very grateful for everyone who's participated in this process and bringing about this positive change.

One of the recommendations that I would like to make today to the Standing Committee on Social Policy is that Bill 160 include an integrated approach, one that focuses on education and prevention, not only for employers, employees and unions, but also for police services, hospital services, social services and the justice system as well, because essentially what happens is that when these service providers do not have the education, do not have the understanding, do not know what to do in these situations where they're dealing with survivors of workplace violence, what ends up happening is that the victims become revictimized over and over and over again throughout the system, much like the situation with sexual abuse.

Until people have the education, until people have the knowledge and are able to apply it, we're not really going to get the change that we need or that we want; and so I think we really need to take a comprehensive, integrative approach so the whole community is educated.

We've done a lot of work through conferences, through educational programs down in Windsor, and we'd like to see these programs brought throughout Ontario, of course; and I'm sure everybody else in the room would like to see that. Just this whole idea of working in an integrated fashion I think is extremely important.

The other recommendation that I would like to make is that Bill 160 include a committee of survivors of workplace violence so that they are given a strong voice in the development, implementation and ongoing workplace violence prevention programming associated with Bill 160.

NOW Foundation's heartfelt goal is to assist all Canadians in creating zero tolerance towards workplace violence. I'm grateful for this opportunity to speak with the standing committee today. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Lanspeary. We'll have about a minute or so per side, beginning with Mr. Miller.

Mr. Paul Miller: Hi. A very good presentation; I agree totally with you about harassment and bullying, and violence in the workplace should certainly be addressed. Are you aware that there's nothing in here, really, to address that? Section 50 is what covers harassment, and that they did nothing in section 50 is basically what you're talking about?

Ms. Janet Lanspeary: Right.

Mr. Paul Miller: Do you have any concerns that they have not addressed anything in section 50 which allows an inspector to actually fine for people that report incidents in the plant of safety problems, so there's no reprisals and things like that and threatening, violence and intimidation, that that is not strong enough in section 50 of the bill—

Ms. Janet Lanspeary: I agree.

Mr. Paul Miller: —and they have not addressed this. I'm a little confused; some of the stuff you're talking about isn't actually in this. This is something which you'd like to see in it?

Ms. Janet Lanspeary: Some of the recommendations that I read did not—for example, even the advisory committee that was established now was—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti.

Ms. Janet Lanspeary: Was there a group of survivors—I'll talk with you later.

Mr. Lorenzo Berardinetti: I'll let you continue that question, but I just wanted to mention that we recently passed Bill 168, which that deals with workplace violence, so that's in place pretty recently.

I guess the question that I wanted to ask you was, do you think that covers most of your concerns today and perhaps this bill will have regulations in place or something in place to deal with workplace violence as well?

Ms. Janet Lanspeary: I think that Bill 168 is a good beginning. I do not think it's comprehensive enough. I think it would be certainly advantageous to address this issue as well through this bill.

Mr. Lorenzo Berardinetti: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Ms. Jones.

Ms. Sylvia Jones: What role do you see the NOW Foundation playing under Bill 160?

Ms. Janet Lanspeary: Well, I think there's a very unique type of expertise that comes out of experiencing workplace violence, especially for professionals in the community. I think there's an analysis that goes on that just isn't possible for other people who haven't gone through that experience to have that knowledge base. I think this is a way that for survivors of workplace violence, Nonviolent Obligation in the Workplace, can play a role in making sure that there are as many things covered as possible to prevent these sorts of things in the future. Because it's a systemic problem within the workplace but also within society, that's why we have to reach in a very wide way to change this, to educate, to promote health—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Ms. Lanspeary, for your deputation and deposition on behalf of the NOW Foundation.

WORKERS HEALTH AND SAFETY CENTRE

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Killham, executive director of the Workers Health and Safety Centre, ably accompanied by Mr. Parkin, managing director.

Mr. Killham, please come forward. As well, just for the purpose of Hansard recording, I'd invite you to please introduce your colleagues. Please begin now.

Mr. David Killham: Absolutely. Thank you very much. With me to my left is Allan Pilkey, who's the director of administration at the Workers Health and Safety Centre; to my right is Loretta Michaud, who is the dir-

ector of information services; and to my far right is Mr. Parkin, whom you've already mentioned, the managing director at the Workers Health and Safety Centre.

Again, thank you very much for this opportunity to address the committee. Just to give you a brief on who the Workers Health and Safety Centre is, the Workers Health and Safety Centre has approximately 65 employees who research, develop, promote and coordinate training programs throughout Ontario for all sectors. Our training is worker-to-worker training, delivered using a network of our worker instructors who have completed our instructor training program, which we believe is the most flexible and cost-efficient training in the entire prevention system. We've delivered more than a million hours of training in the past 10 years. We operate an extensive education program for unions, but the vast majority of our training is bought and paid for by the employer community, and indeed the majority of that training is for non-union employers and non-union workers. Our mission is to deliver the highest-quality training anywhere that we can possibly deliver.

The evolution of the Workers Health and Safety Centre started off with, frankly, the Ham report back in the late 1970s. The Ham report, as many of you will know, found that workers had been denied effective participation in health and safety in the province of Ontario and that, in fact, what they needed was knowledge and contributive responsibility in occupational health and safety. Certainly with the struggle with the Steelworkers up in Elliot Lake, the Ham commission was put forward. Dr. Ham came out very strongly in terms of making sure that there was a need for self-education amongst workers.

Following the Ham commission was Burkett in 1981. Burkett had a general theme, and his theme was jointness—to ensure there should be jointness in everything in terms of health and safety. The mining community at that point in time was, again, the focus of the report. It was suggested that there should be a labour- and management-governed training organization for mines, but in fact labour at that point in time decided that's not what they wanted; what they would like to have seen is a labour organization by itself.

Labour, through the Ontario Federation of Labour, at that point in time started a project called the Workers Health and Safety Centre. Weiler reported in 1983 that he estimated that less than one fifteenth of all workplace-caused cancers were recognized by the WSIB at the time and recommended a formation of an occupational disease panel to research and identify the hazards in relationship to the disease. He also identified that joint health and safety committees were the centrepiece of the internal responsibility system.

As I stated, the vision of the OFL and, at that time, the president, Clifford Pilkey, was to ensure there was an ability for workers to get training by workers and for workers to do training that would help and benefit workers. That was his vision.

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With that, through the OFL, he created the Workers Health and Safety Centre. Originally, it was a project of the OFL. Then in later years, under the Davis government, we got sustainable funding from the government.

What we did was we developed a base of skilled worker instructors and adult educators with the knowledge of work to deliver the training. In fact, we had trainers in the workplaces who came out of the workplaces or did the training inside their own workplace; who had the innate knowledge of what was happening, could recognize hazards and, indeed, worked with the hazards every day.

Recently, there was a Canadian HR Reporter-polled survey, January 17, 2011. In terms of Cliff's vision about making sure workers have their own voice and are able to get their own voice, this survey by the HR Reporter of January 17, 2011, said that 35% of employer representatives in an organization would tolerate just about any kind of bad behaviour, and I think this is an interesting—this isn't us saying that; this is the Reporter—and that 51% said that their organization would tolerate some misbehaviour, and if the act got too bad, then they would address it. The point being, unless workers have an opportunity to get training that's substantive and real for them, they are basically left to the devices of the workplace. That's the point, from our perspective.

WHSC accomplishments: As an independent and autonomous organization, which we have been for many, many years within the prevention system in Ontario, we've never had to worry much about the different directives. We are today, of course, facing many different directives, and we understand why. We certainly understand the reality of accountability and we certainly understand the reality of propriety, given all the things that have happened in the last little while. But what we've always been leaders on is training worker representatives in the link between workplace hazards and occupational disease; training that workplace violence is a matter for workplace parties, not just the police; supporting worker representatives' involvement in workplace toxic use reduction; promoting the adoption of hazard-based health and safety programs and internal responsibility; warning about enforcement initiatives that drive worker lost-time injury claims underground; warning of the destructive effects of individual responsibility; and addressing the declining training standards for joint health and safety committee certification, which I know has been a topic of discussion—maybe in this room—in the past. It certainly is a huge topic of discussion out there, given that we believe that there are so many workplaces in the province of Ontario that, indeed, are not compliant with the law when it comes to the reality of certification training.

I want to talk specifically about the value of the Workers Health and Safety Centre's independence and autonomy. Our board of directors—and I'm pleased to say that one of our board of directors is actually here today, Nancy Hutchison from the Steelworkers; I believe she'll be addressing you folks later. Our board of directors has discussed amongst themselves and is deeply concerned about the recent efforts which we perceive to be an attempt to erode our independence and our autonomy.

We don't see in this bill, at this point in time, any mechanisms that will give us the ability to speak on behalf of workers in the way our curriculum is developed; in the way that we pursue occupational health and safety training as a hazard-based reality more so than an individual-based reality or a worker behavioural reality.

From our perspective, we've had to fight back at times this IRS—not being the internal responsibility system, but the individual responsibility system—which is certainly at odds with what people in the past, such as Ham, Burkett and Weiler talked about, which is the joint health and safety committee centrepiece, in terms of internal responsibility.

We've seen efforts to curb some of our abilities to work in the north by one of the safe workplace associations. I won't go too far into that, but we have always been across the province of Ontario, effectively delivering health and safety training. We would certainly continue to do that and continue to do it in the way that we've always done it: effectively, efficiently and, frankly, at the lowest cost to all parties.

One of the things that we took umbrage with, and my board of directors certainly took umbrage with, were the comments from Mr. Dean about HSCs being realigned and that we all had to pull in one direction. I would just like to more or less focus on that just for a second. The reality of what we do is to try to be the alternative voice for workers when it comes to workers' health and safety training. I think, again, Dr. Ham, Mr. Burkett and Mr. Weiler tried to identify that as a real need for workers: to have a voice, to have an alternative voice from that of the boss or that of the government.

There was a recent study done—Shifting Gears, I understand it was called—and it talked about missions and results and not command and control. It came from the U of T School of Public Policy and Governance, and what it talked about—in fact, Mr. Dean was one of the primary contributors to the report. It talked about government entities being more innovative and bringing value so that—those organizations actually do a lot of the work that government does so that government doesn't have to do it. It doesn't have to all be on the back of government.

Bill 160's minister's powers do not serve the public, as far as we're concerned. At this point in time, the way we read the legislation, we believe it could potentially end the independent governance and operational autonomy of the Workers Health and Safety Centre. For 30 years we have understood, again, financial propriety. We've understood what it is to ensure that the money that's being spent is spent wisely, spent appropriately and spent for the reasons it was given to us for in the first place.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Killham, to you and your entourage, on behalf of the Workers Health and Safety Centre, as well as for your written deputation.

I would now respectfully invite our next presenter to please come forward: Ms. Diana O'Brien.

That is the full time. I do have digital support to back that up.

MS. DIANA O'BRIEN

The Chair (Mr. Shafiq Qaadri): I would now invite Ms. O'Brien to please come forward, who I understand is coming to us in her capacity as a private citizen.

Thank you, Ms. O'Brien. I invite you to please officially begin now.

Ms. Diana O'Brien: Good afternoon. My name is Diana O'Brien, and I work at a Real Canadian Superstore in Milton. That is part of Loblaw Companies, and it's a grocery store. I am also a member of the United Food and Commercial Workers 1000A. I am a member of our joint health and safety committee, a certified worker and the co-chair. I am also an instructor, trained by the Workers Health and Safety Centre. I'd like to share with you an experience that happened to me as I became involved.

To become certified, I was sent to Toronto to take a course which lasted three days, two of which were so-called training; then, on the third day, we would write the test. When we finished our test, we were told not to put it in the envelope but rather to bring it to the instructor, at which point they would look it over, point out errors and direct you to choose the correct answer. You would have to erase your choices and then place your test into the envelope and seal it. This resulted in 100% of the participants passing the test. I left that course with little understanding or knowledge of health and safety or the act.

I completed part 2 of their certification back at my workplace. This was directed by my management. I then became a certified worker, and the store had met its requirements under the act. But as you can see for me, this was wrong, and I'm sure you'll agree.

I needed proper training. My union was able to provide this for me with a program that was provided through the Workers Health and Safety Centre. Since then, I have attended additional courses, training sessions and meetings.

I was able to take part in a session held at the Ontario Federation of Labour with Tony Dean and Vernon Edwards, who were part of the expert panel. We had discussions there, and I thought they were meaningful. I believe one of the themes or focuses of the expert panel was how it is intimidating for workers to rise up against health and safety issues and present these to their employers, especially when workers are non-union or temporary foreign workers.

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Yet Bill 160 now would have it so that either of the joint health and safety co-chairs could solely submit written recommendations to the employers. This process would discourage and intimidate me, as a co-chair, to raise legitimate health and safety concerns. It would be more difficult to make recommendations to the employer: the fear of the members on the joint health and safety committee to support or not support a recommendation, as this would become part of a unilateral recommendation presented by a co-chair.

Secondly, the council to be known as the prevention council does not include representatives of the labour

movement which, in my opinion, should be in equal numbers to those of the employers on such a council.

As I spoke to in the beginning, training is of great concern to me. We need to allow the Workers Health and Safety Centre to remain independent, to meet the needs of the workers, to be able to receive the grants and not be restricted in what and how programs are delivered. The training is to workers from workers, and workers should have a say in their training.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Ms. O'Brien. We have a generous amount of time, about two minutes per side, beginning with Ms. Jones.

Ms. Sylvia Jones: Thank you for sharing your story. Your main concern with Bill 160 is the combination of the committees? You want it to stay status quo? Am I interpreting that correctly?

Ms. Diana O'Brien: The committee—I'm sorry? I'm not sure of the question.

Mr. Paul Miller: The joint committee.

Ms. Sylvia Jones: Yes. Currently, you have the workers' committee, and under 160, that would be combined into one. You don't support that change?

Ms. Diana O'Brien: What I'm concerned about is that the co-chairs can solely make recommendations to the employer, okay? Presently, we sit, discuss and come up with recommendations, which is a part of what we need to do to stop the hazards in the workplace. The intimidation that's going to be there by knowing that once we start that discussion, if members disagree or agree that has to be a part of a recommendation, should the co-chairs so choose to make a sole submission on their own. Presently, it would be a joint recommendation from the committee without them knowing so.

Ms. Sylvia Jones: Okay. Thanks, Diana.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Miller?

Mr. Paul Miller: I share your concerns about the joint committees submitting separate documents. A committee is a committee, and they decide as a whole.

I don't like an unbalance on the committee, too. I foresee problems if there are more company members on the committee than there are hourly workers. Hourly workers can identify their safety hazards a lot better. I know; I did it for over 30 years in a steel plant. They know what's safe and what isn't on the job. The administrators, or even the foreman, for that matter, are not familiar, a lot of times, with the things you face day to day. So I have grave concerns too, and I share your concern there.

As far as reprisals go, I'll let you know that under section 50 of the present bill—and there's nothing really to address reprisals. I think it's almost less than 1% of any fines that have ever gone out from the labour ministry on employers that have had intimidation problems, intimidating employees. They don't enforce their own rules.

I don't see any of that in here. I don't see any strengthening of that. I have great concerns, as you do, about intimidation in the workplace. It's not being addressed in Bill 160.

Ms. Diana O'Brien: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Thank you, Ms. O'Brien, on behalf of the government side, for showing up today. Excellent presentation. I just want to say thank you for your presentation. We are listening to what you have to say.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti, and thanks to you, Ms. O'Brien, for coming forward for your deputation today.

CANADIAN AUTO WORKERS' UNION

The Chair (Mr. Shafiq Qaadri): Now I invite Ms. Sairanen of the CAW, the national director of health and safety, to please come forward.

I invite you to please begin now.

Ms. Sari Sairanen: Thanks very much for the opportunity to submit our views and recommendations on Bill 160.

The CAW represents over 120,000 working men and women in Ontario. We represent workers in the auto manufacturing sector, aerospace, transportation, retail, hospitality, health care, mining, gaming and many others where our members face daily workplace hazards.

The world of work has changed, and it was welcomed when the Dean panel was established to review where we are with the infrastructure of health and safety and prevention in this province. When the recommendations came out, there was great optimism that meaningful change would be made in the prevention system. Our membership has experienced 53 fatalities: That's 53 members' families who have not had a loved one return home at the end of their workday, and thousands of others have experienced painful and often life-altering workplace injuries and, of course, occupational diseases.

The recommendations reflected in Bill 160, we feel, are not showing the clear intent and spirit of the Dean report. I have five key areas that I'd like to highlight to you, and they're also highlighted clearly in my submission, along with proposed changes to the bill. That's for late-night reading.

My first concern is with the extensive powers that are placed in the hands of the chief prevention officer appointment, as well as the prevention council appointment by politicians or a minister. We're deeply concerned about the potential that these powers are to be used in arbitrary ways or for partisan purpose. We are requiring that changes are made dramatically to empower the council—and it is the council that should be the foundation of the prevention system—to ensure that trade unions are represented on this council in at least equal numbers as employers and to protect the independence of the chief prevention officer to guarantee his or her acceptability by the council.

Number two—and you just heard from my colleagues from the Workers Health and Safety Centre as well as the Occupational Health Clinics for Ontario Workers. It is absolutely critical that these key organizations, the Workers Health and Safety Centre and the OHCOW clinics, are respected and that mechanisms are put in place to keep their independent governance and their ability to set their priorities, approaches and philosophy—and to develop the content, services and information that meet the needs of workers. We cannot support this legislation until such written assurances and mechanisms are in place.

The third item is the accumulation of power by senior Ministry of Labour bureaucrats to write law or legislation. We are deeply concerned about the section of the bill that gives directors of the ministry the authority, without any oversight, without any warning, to publish policies that have the force of law. We cannot accept any legislation that gives the government of the day these secret powers.

Number four: Failure to protect workers from reprisal. Vulnerable workers who are victims of reprisal for their attempt to protect their health and safety are not effectively protected by this bill. Workers have the right to participate, know and refuse, and these rights must be powerfully and swiftly enforced. We are particularly concerned that Bill 160 will place limitations on the ability of inspectors to appear before the OLRB and provide testimony and evidence to protect workers.

Finally, placing obstacles to joint health and safety committee co-chair recommendations. As written, Bill 160 provides no relief to worker members on a joint health and safety committee facing stonewalling tactics from the employer side of the joint committee. The power of a co-chair to send a recommendation to the employer must not be subject to restrictions.

These five areas are extremely important to us, to our members and to the opportunity to finally move forward; to preserve, enforce and elevate the health and safety prevention system in this province. Some 53 CAW members have already lost a loved one, and also the families on the Christmas Eve disaster of 2009 lost loved ones. We have a keen responsibility, all of us in this room, to ensure that those catastrophes do not happen again. It's time in history for us to make change, and we look forward to those changes and working with all parties to ensure that there is consistent and regular enforcement in our health and safety system. Thank you.

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The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sairanen. About a minute and a half per side, beginning with Mr. Miller.

Mr. Paul Miller: Thank you for your presentation. I wrote down your concerns, and I share all of them with you. The one I found most fascinating was the 53 fatalities in the auto workers' situation and the lack of response by the government. The fines were minimal at best, and sometimes nothing.

I, in the steel industry, have seen lots of people killed in the steel industry, and there's been very little in the way of fines or putting the companies in place like they should and making sure that those things don't happen again. A lot of times they're lackadaisical in actually imposing the corrections to the health and safety concerns that are brought forward by joint health and safety committees. That happens on a regular basis.

I, too, am concerned about the power that's put into the hands of the director and his ministerial comrades who will be working with him, along with the minister. The minister can overrule even their decision, so where do the actual workers and the worker committees come into play as far as having any say in the overall process? I'm very concerned also.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Ms. Sairanen, for your presentation. Just one quick point: At the end of the day, with the new bill, accountability will rest now with the minister. So if anything is not working, instead of going through the other systems that are presently in place, the minister, at the end of the day, is where accountability will rest. Do you have any comment on that?

Ms. Sari Sairanen: Well, 53 families have lost their loved ones. So the minister has been responsible for enforcement. That is something that Bill 160 needs to address, to look at and to ensure that the legislation that is in place then is enforced in the workplaces, and that preventive measures are then put into place.

Now that prevention is coming into the Ministry of Labour, there is double the workload, if you want to say that, of ensuring that all workers go home at the end of their shift whole. The minister now gets additional responsibilities, so there's more pressure on that entity to ensure that no families are left without a loved one, without a breadwinner or a caregiver in the family.

That responsibility has already been there with the minister, and it hasn't proven very well. Now we have an opportunity to put the measures in place to ensure that the job is done correctly and that the support infrastructure that is in place is enforced.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation. Just one quick question regarding your first point. You say, "Ensure that trade unions are represented on this council in at least equal numbers as employers." Do you see any opportunity or role for non-unionized labour in that—

Ms. Sari Sairanen: These are appointments, or a trade union, so that's what we enforce and want to see: a trade union being represented. As a trade union we also look after the unorganized to ensure that their role, their voice and their health and safety are protected as well.

Ms. Sylvia Jones: Correct me if I'm wrong: The December 24 deaths were non-unionized?

Ms. Sari Sairanen: Correct.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Thanks to you, Ms. Sairanen, for your deputation on behalf of the CAW.

MS. DIANE WINSBOROUGH

The Chair (Mr. Shafiq Qaadri): I would invite our next presenter, Ms. Winsborough, who joins us via conference call. Are you there, Ms. Winsborough?

Ms. Diane Winsborough: Yes. My name is Diane Winsborough, and I'm with the Ontario English Catholic Teachers' Association. I'm presenting to you—

The Chair (Mr. Shafiq Qaadri): Just before you begin, Ms. Winsborough, this is Dr. Qaadri, Chair of the committee. Could you do something on your end with the volume, and maybe we can as well?

Ms. Diane Winsborough: Okay.

The Chair (Mr. Shafiq Qaadri): Just introduce yourself as a test of sound quality here.

Ms. Diane Winsborough: Okay. Diane Winsborough.

The Chair (Mr. Shafiq Qaadri): That's great. Please proceed. You have 10 minutes. Please begin.

Ms. Diane Winsborough: I'm with the Ontario English Catholic Teachers' Association.

The Liberal government in Ontario has made some great strides for workers and families alike over the years. However, there are some areas which are of concern to Ontarians. Bill 160, although well-intentioned, has some grey areas and inherent flaws which are alarming to activists in the occupational health and safety arena. I plan to list and discuss a few over the next 10 minutes.

The right of workers to choose who delivers their health and safety training is a never-ending struggle when dealing with management. As a member of our joint health and safety committee, we are consistently subjected to training through health and safety organizations which are biased and slanted in favour of management. Our recommendations for training through the Workers Health and Safety Centre are ignored, as management fears we will be trained too well and will be able to run circles around them.

In order to be trained properly, many of our members have opted to take training through the Workers Health and Safety Centre on their own time and without remuneration from our employers. Our union supports us and repays us any out-of-pocket expenses, as they see that this is crucial knowledge to be effective.

This topic of effectiveness brings me to my next point, which is how the proposed Bill 160 curtails the rights of the co-chairs and puts a great deal of power in the hands of the Ministry of Labour and other government bureaucrats. Can you please explain how this gives the worker any sort of empowerment at all? Is it not being aggressive, rather than progressive?

As an occasional teacher, our rights and recognition as professional workers are often challenged in our environment. Often, we are left out of training that is offered to full-time employees as our members fall through the cracks. Where is there any protection given to occasional or part-time employees under Bill 160? We need specific mention, and I feel this is very important and relevant given that many new jobs being created in our current economy are either part-time or contractual.

I am fortunate enough to be part of a strong, unionized organization, and our joint health and safety committee often faces many roadblocks from management. What about workers who are non-unionized; vulnerable, new immigrant and young workers? How are they protected through Bill 160?

The Ontario Labour Relations Board is not a viable protection for these workers, as the process is convoluted, time-consuming and very expensive, such as trips to Toronto and hiring a lawyer. This is true especially if the worker has been dismissed from their job. Many are also unaware of how to contact an Ontario labour relations officer or that one even exists. How does the bill address this situation?

Workwell audits are also being done away with in Bill 160 and the responsibility going back to the Ministry of Labour. Why is this being done? Workwell audits were very effective. Specifically, how will the Ministry of Labour replace this type of audit?

This being said, many of the part-time and contractual workers are often hesitant to report injuries or any other infractions of health and safety on their worksite as they fear losing favour with the employer and a chance to become full-time or permanent employees. Workers are often blacklisted for being safety advocates, as they are classed as troublemakers by the employer or management.

We cannot allow our workplaces to return to the dark times of the Industrial Revolution, as is the case with many countries in the developing world right now. Being competitive in this economy means working smart and being safe and informed, and it's essential to being productive and competent workers.

I'm proud to say that I'm also an instructor with the Workers Health and Safety Centre and feel committed to education, knowledge and continued learning. I believe the Liberal government, under Dalton McGuinty, has proven that they are also committed to these areas, and this is why Bill 160 must be adjusted to keep the person, worker or family member at the forefront, and not a faceless, nameless bureaucracy.

Thank you for allowing me to speak my piece today.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Winsborough. About a minute and a half per side. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Thank you, Ms. Winsborough, for your presentation today. I'm just going to ask you a quick question.

This bill in front of us today is just a first step. The government intends on consulting with stakeholders, like yourself, when any regulations are proposed. Do you have any comments on that?

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Ms. Diane Winsborough: How is this being done?

Mr. Lorenzo Berardinetti: Well, the act is not bringing in all of the recommendations from the Dean panel, but the key ones. The government plans to con-

tinue to consult with stakeholders like yourself. If you had to put any changes forward, what would they be?

Ms. Diane Winsborough: The main changes would be for—in my case, anyway—who delivers the health and safety training. It's not specifically mentioned in the bill that the workers have a choice, and even if it is, there's no teeth in there to make it happen. Management still reserves the right to choose who is training workers, and often this training is biased and in favour of management, so the workers are not really being trained effectively. Also, the powers are going to the council rather than the CPO.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti.

Ms. Winsborough, I'll now offer question period to Ms. Jones of the PC caucus.

Ms. Sylvia Jones: Thank you, Ms. Winsborough. I share your concern about how much of the details will end up being in regulation because, as you've touched on in your presentation, regulation can be changed with very little input from not only the public but even the government in power. It just takes a couple of signatures at a cabinet level. So I do raise the same concern you have with regulations.

The Workwell audits: You are the first presenter that has raised that. Do you have any theory as to why they would have been or they are planning to eliminate them under Bill 160?

Ms. Diane Winsborough: No; really, I don't know why they would be. It's been proven to be a very good process, very effective, and this is why I'm questioning why it's being taken out and going back to the Ministry of Labour's office.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones.

Now, to Ms. Winsborough, Mr. Miller of the NDP.

Mr. Paul Miller: Thank you for your submission. You hit on some key points. I'm not quite sure I share your comment about what a great job the government's done on this, but anyway.

The right to choose who delivers safety programs was one of your concerns; powers to the ministry and bureaucrats; Bill 160 doesn't cover part-time workers in offices, as well, and it also doesn't cover farm workers—I think those are some of the points you brought forward. I guess your main concern is the right to choose who delivers your safety programs. I think the new administrator and the person they're putting in ahead of this is going to have too much say. Would you agree with that?

Ms. Diane Winsborough: Yes, I do; definitely.

Mr. Paul Miller: So your suggestion would be that this bill should go back to the table and be re-examined?

I'm very concerned about enforcement. You can write anything you want into the details of the bill, but if you don't enforce your own legislation then it becomes irrelevant, wouldn't you say?

Ms. Diane Winsborough: Yes, definitely; that's very accurate.

Mr. Paul Miller: Thank you for your comments.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller of the NDP, Ms. Jones of the PC caucus and Mr. Berardinetti of the government caucus, and to you, Ms. Winsborough, for coming to us via conference call. That concludes our afternoon with you.

LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Mannella of the Labourers' International Union of North America.

Welcome, Mr. Mannella. I invite you to please begin now.

Mr. Cosmo Mannella: Thank you very much. I represent 60,000 workers, primarily in the construction industry. In the interest of health and safety, given the temperatures in here, I will be very brief.

There are three things that I want to touch on:

(1) I think this is an opportunity to address, in very strong terms, the underground economy. Without getting into too many details, we all know the cost of the underground economy both in human lives, human loss, and in financial loss, both to the government and to the economy at large.

(2) I want to put in strong, strong support for labour management committees. The model of labour management co-operation in the province of Ontario is a model that the entire world looks to, in terms of working in the training and development of health and safety programs. Things like the IHSA and labour management training trust funds are a model that everyone looks to, and in fact were way ahead of their time, having been in existence for over 40 years, training workers not only in health and safety, but in the skills required to do their job.

(3) Finally, I want to talk about the mechanism for funding. In Bill 160, there's talk of training workers. We all know that training is the key to providing better health and safety and prevention, but that comes with a cost. We have to ensure that the training infrastructure that already exists through labour management committees' training trusts is supported with adequate funding to do the training and ensure that workers are protected.

Those are my comments.

The Chair (Mr. Shafiq Qaadri): Thank you. There's a lot of time for questions, beginning with the PC caucus. Ms. Jones.

Ms. Sylvia Jones: I'm intrigued that you think Bill 160 is going to help remove or lessen the underground economy, because during the second reading debate, many of us raised how it wasn't. Please educate me.

Mr. Cosmo Mannella: I'm not suggesting that it will; I'm saying that it's an opportunity for us to address it in a meaningful way—

Ms. Sylvia Jones: But Bill 160 does not.

Mr. Cosmo Mannella: It does not address it currently. I'm making a pitch here, that in the regulations—in fact, we do have some ideas, which I will be presenting, hopefully, at a later date to the minister, but I left that for another day.

Ms. Sylvia Jones: But you raised the regulation issue again, and as an opposition member, I'm not keen on regulations. We don't have the opportunity that we're having today, with public input to review and look at regulations and try to tweak them to make them better. You think there is some opportunity in regulations. Bless you; you're more optimistic than I am.

Mr. Cosmo Mannella: Our industry will be making some very strong proposals around the underground economy, because our industry is one of the industries that is the most adversely affected by the underground economy.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: Thanks for coming. I've had a couple of trades, so I'm well aware of construction. I know that there are things that go on out there, in reference to companies on work sites that, through subtle intimidation, have even gone to points where they've offered—for example, if you don't report an accident or you don't report any safety problems, there might be a Harley-Davidson raffled off at the end of the year. I've seen that happen. Do you feel that that goes on?

You're talking about the underground economy. We're also talking about underground intimidation on the work site. I'm sure you've run across that in your career—where there's a fishing trip up north, and if I report an accident and I'm working alongside you, it intimidates me a little bit if you say, "Well, Paul, it's not that bad. You'll get over it," then five years later I end up with knee problems. Have you ever seen any of that?

Mr. Cosmo Mannella: It does happen.

Let me just say this. The vast majority of unionized contractors with whom I work have an absolute commitment to health and safety and protecting the lives of their workers (1) because they're generally compassionate people and come from the trades themselves, by and large, and (2) because it's an issue of productivity. You spend a lot of time training a tradesperson, and the last thing you want to do is lose them through injury or death.

Mr. Paul Miller: That's good for a unionized situation, but you talked about the underground economy. There are a lot of job sites that aren't unionized, as you well know.

Mr. Cosmo Mannella: We're working on that through our organizing department.

Mr. Paul Miller: That could cause problems.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I just want to thank you for your presentation. The government is listening, and there will be further consultation on this.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Mannella, for your deputation on behalf of the Labourers' International Union of North America.

MR. TONY SISTI

The Chair (Mr. Shafiq Qaadri): I'd invite our next presenter to begin. Mr. Sisti, are you there on the conference call?

Mr. Tony Sisti: Hi. My name is Tony Sisti—

The Chair (Mr. Shafiq Qaadri): Just before you begin, we need to do a little sound quality enhancement, so maybe we can do that on both ends.

Mr. Tony Sisti: Okay.

The Chair (Mr. Shafiq Qaadri): That's great. I'm Dr. Qaadri, the Chair, and you're now before the Standing Committee on Social Policy in Parliament. I invite you to please begin now. You have 10 minutes, firm.

Mr. Tony Sisti: My name is Tony Sisti. I'm the owner of TRS Consultants, a business that I started to address the shortcomings of the health and safety act. In my years at General Motors, I began as a machine operator and eventually became an elected rep in my last 17 years. The General Motors transmission plant that I worked in is no longer in existence, so I had to find another field to get into. Health and safety has been my passion, so that's why I've chosen to become a health and safety consultant.

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I was trained by the Canadian Auto Workers, which I am very proud of, for the past seven years. Through my union, I was afforded the opportunity to be trained in health and safety through the training centre, which is the Workers Health and Safety Centre. I have instructed for them for the past 12 years. I've gained a tremendous amount of experience.

Through some of my experience, I've also sat through some management health and safety-associated programs. Let me tell you, those classes are nowhere near the quality of training—or they're not giving me the tools that I needed to do my job as a worker representative.

I believe that the information and the training provided by the Workers Health and Safety Centre better prepared me to do my job. They believe in prevention rather than reacting to issues.

Bill 160 does not address the reasons why those workers died on scaffolds Christmas Eve. The Tony Dean report addressed it, and Bill 160 did not. In my opinion, that's a shortcoming of this bill.

If we go back years ago, when Elie Martel went around the province to review health and safety, he introduced a report: Not Yet Healthy, Not Yet Safe. Three years later, he went back to see if there were any changes that had taken place and another report, Still Not Healthy, Still Not Safe, was given to the Legislature. Out of that, Ontarians got Bill 208. It addressed the training of workers and their representatives on joint health and safety committees. The next Conservative government, with the stroke of a pen, stripped workers of their rights. In essence, that bill was by far better for workers in the province.

I am really concerned about the shift in power also in this bill from the Workplace Safety and Insurance Board to the prevention council. This council and its appointed czar, the chief prevention officer, will be in charge of numerous parts of the act. Is this move supposed to be neutral or revenue neutral? That's my question. Will the Ministry of Labour's role now be to control the health and safety of workplaces? If you recall, the workers gave

up the right to sue for the current WSIB system that we have in place.

Employers are responsible for financing the WSIB. Taking that money out of the WSIB system and putting it into the MOL: Can you tell me how this will affect the benefits of injured workers? You say it'll be revenue neutral, but will the employers no longer fund this prevention part of the system? If so, will the shortfall come out of the pockets of the taxpayers?

Another concern about the prevention council is equal representation. Equal representation means equal workers. One worker vote on the council does not give appropriate representation or rights to workers. It should be an equal number of workers on that council, and workers are generally concerned about workers. That's why I stress workers should be on that council.

My concern as a safety consultant is that there is no mention of ensuring companies and making employers follow legislation. Simply look at the Lori Dupont Act, which went to [*inaudible*], if you remember, just this past June. On Saturday here in Windsor, we trained 20 workers from all over the city. I know in some of the workplaces, the act still means nothing because people are telling us that they are not getting the training in this act, nor are they seeing the postings of the policies that should be in place. Simply, people are not being trained, and employers are not following compliance.

This act means nothing because a lack of enforcement makes it simply irrelevant. With that, that's my conclusion.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Mr. Sisti. You have about a minute and a half or so per side, beginning with Mr. Miller.

Mr. Paul Miller: Thanks. Hi, Mr. Sisti. How are you?

Mr. Tony Sisti: I'm doing just great. You?

Mr. Paul Miller: Yeah, good. I, too, am very, very concerned about the lack of coverage in this bill for intimidation in the workplace, as well as appropriate fines.

Over the years in the steel industry, over 30 years, I've seen a lot of fatalities. These companies just get a slap on the hand, and a lot of times, they don't follow through on the recommendations of the labour ministry or the WSIB. How do you feel that this bill should be beefed up in section 50 to address the lack of enforcement? It's absolutely astounding, the amount of fines—how low the levels are. I think they've probably been introduced very rarely, if they've been fined, even when there's a fatality. How do you feel about that?

Mr. Tony Sisti: Unfortunately, health and safety law comes into effect after people have been maimed or killed and stuff like that. The enforcement isn't there. I think the MOL inspectors need more power to get the workers back to work. That's one of the things. Also, I think the employers, especially now that I'm doing safety consulting—I'm finding that a lot of them are ignorant of the fact that they have responsibilities. I think through the inspectors and through the Ministry of Labour or the WSIB or whoever it is—they need to contact each employer and explain to them their obligations and what they're supposed to be doing, rather than just hoping that they don't have an injury or have WSIB deal with a lot of them in the workplace to find out—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Sisti, you're now with Mr. Berardinetti of the government caucus.

Mr. Lorenzo Berardinetti: Hi, Mr. Sisti. First of all, thank you for your presentation, on behalf of the government members here. You mentioned some key points earlier, and we're taking them into consideration, but I'll make one statement that we support health and safety associations such as yours. The bill in front of us today intends to continue to work with associations like yours. Associations like yours are very important to the system that is presently being set up. Thank you.

Mr. Tony Sisti: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Mr. Sisti, you're now with Ms. Jones of the PC caucus.

Ms. Sylvia Jones: Thank you for your presentation. I'm really pleased that you brought up Bill 168 because I was actually involved in that committee hearing as well. There were a number of presentations that talked about the lack of detail in the legislation itself. What I'm hearing from you is that, in fact, that it's now coming through as employers and employees try to figure out how to train for 168. I'm concerned that we're setting ourselves up with a similar situation in Bill 160, where too many details are going to end up being in regulation.

Mr. Tony Sisti: I agree with you.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Mr. Sisti, for coming to us via conference call.

UNITED STEELWORKERS, DISTRICT 6

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward: Mr. Scibetta and Ms. Hutchison of the United Steelworkers, District 6.

Welcome. I'd invite you to officially begin now, please.

Mr. Charlie Scibetta: Thank you very much, Mr. Chairman and fellow committee members. I just want to introduce Ms. Hutchison, to my left, who is our health and safety coordinator for District 6 for the United Steelworkers. On behalf of the United Steelworkers union, we thank you for the opportunity to provide our comments to the committee on Bill 160.

As you may be aware, our union's leadership and membership appeared before the Tony Dean expert panel on numerous occasions during the public consultation sessions that took place throughout the province. We appreciate the work done to date. However, we believe that this is a critical opportunity to improve the occupational health and safety system in Ontario, which is fundamental for workers and their families in keeping them protected from injury and disease.

The Steelworkers represent approximately 70,000 members in the province of Ontario. We represent mem-

bers in all sectors of employment, which include our traditional industries of steelmaking, mining, rubber and manufacturing. We also have thousands of members in sectors such as health care, financial, transportation, forestry, security, the service sector and post-secondary education, to name a few. All sectors and occupations in Ontario will be impacted by the outcome of this proposed legislation.

It is also important for the committee to know that this is personal for the Steelworkers, as it was our members, the miners in Elliot Lake, whose decision to strike on behalf of health and safety lead to the James Ham royal commission. The miners discovered that the exposures the employer was subjecting them to—radiation, silica dust and other toxic substances—were causing their early deaths from cancer and other occupational diseases. Elliot Lake was a town full of widows.

It was the findings of the Ham commission that resulted in all workers in Ontario, and ultimately across Canada, being able to benefit when the Occupational Health and Safety Act was proclaimed law on October 1, 1979. The Occupational Health and Safety Act was then placed under the jurisdiction of one ministry, the Ministry of Labour.

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Our members sacrificed their lives for this act, and that's why we're here today. We must ensure the rights of workers are strengthened and not weakened. This is another critical time in history where we can all make a difference in workers' lives.

We will be providing comments on five critical areas of concern in Bill 160 that, if amended, would make a dramatic and positive impact on the health and safety system in Ontario and ultimately the quality of life of thousands of workers.

Our first area of concern is the exclusive powers of the minister. Bill 160 places extensive powers in the hands of politicians, specifically the Minister of Labour. This power will include appointing the chief prevention officer and prevention council. We are concerned about the potential for these powers to be used in arbitrary ways that will hurt workers or the organizations that we depend on. Specifically, we're speaking to sections 4 and 5 of the bill, as well as all of section 8(2). Those provisions of the bill dealing with powers of the minister need to be rewritten so it is the chief prevention officer who has those powers.

We require changes that dramatically empower the prevention council and that ensure trade unions are represented on the council in at least equal numbers as employers and other members. Worker members of the council must be from trade unions appointed through the Ontario Federation of Labour.

The proposed prevention council was viewed as a means for stakeholders to have a meaningful role in the prevention system and to be involved in such issues as development of priorities, prevention strategies, development of standards, and setting key performance indicators.

It was envisioned that the council was to work with the chief prevention officer on any proposed changes to the system design, funding and delivery. The role of the council must not be simply a token. However, by having the powers invested in the minister rather than the chief prevention officer, we feel this may be the case.

Our second area of concern is the failure to protect workers from reprisals by their employers. Workers who are victims of reprisal for their attempts to protect their health and safety are not effectively protected by this bill. Ontario workers have the right to participate, know and refuse, and these rights must be powerfully and swiftly enforced. The expert panel supported that. Currently, the Ministry of Labour inspectors have no role in the reprisal complaints process in section 50 of the act. All they are directed to do is hand the worker a pamphlet from the Ontario Labour Relations Board. They have been directed not to write orders or charge an employer for their actions against a worker under section 50. This is shameful.

The intent of the expert panel was to give workers a chance if they suffer from a reprisal for trying to exercise their rights under the act—a chance the four dead migrant construction workers would have liked to have on Christmas Eve 2009. Maybe if there had been a real section 50 in place with some teeth and some enforcement, they would be alive today. There must be a meaningful role for inspectors with a section 50 complaint. Give them the power to reinstate pending an investigation or hearing.

We are particularly concerned that Bill 160 will place limitations on the ability of inspectors to appear before the OLRB and provide testimony and evidence to protect workers. We ask that you remove the section in Bill 160 that would make an inspector not competent to be a witness at a hearing on a reprisal complaint. This completely undermines the intent of the expert panel on the issue of improving the reprisal protection for workers. You can't strengthen a system if workers have no voice when they fear for their jobs.

Number three, undermining the legal authority—the power of Ministry of Labour senior bureaucrats to write law: We are at a loss as to why the government is handing Ministry of Labour directors the ability to make law—directors being able to create legislation that bypasses the cabinet and Legislature. We're concerned that there's a serious hidden agenda here, and we cannot accept any legislation that gives the government of the day these secret powers. Try to realize how far-reaching this is. Directors of the ministry would have the authority, without any oversight or any warning, to publish policies that have the force of law. We are shocked that the government would allow bureaucrats to write law on their behalf. This section of the bill must be removed. It is setting a dangerous precedent for you and for workers.

A fourth area of concern is a lack of worker power when the internal responsibility system breaks down—placing obstacles to joint health and safety committee co-chairs' recommendations. As written, Bill 160 provides no relief to worker members on joint health and safety

committees facing stonewalling tactics by employers. In workplaces with 20 or more workers, employers are required to have a joint health and safety committee. In principle, the joint health and safety committee is to be an integral part of the internal responsibility system. The committee has the power to make recommendations on health and safety issues to reduce workplace injury and illness, yet many employers are determined to undermine the role of the joint health and safety committee and block recommendations from the committee that would keep workers safe and healthy.

The expert panel recognized this and recommended that the Occupational Health and Safety Act should be amended to allow a co-chair of the joint health and safety committee to submit a written recommendation where the employer has been blocking recommendations. Amazingly, the employer retains the right to say no.

Under this bill, these new requirements require the co-chair to write a comprehensive report in addition to the recommendation. This is unacceptable. These provisions can be found in section 7 of the bill. Subsection 19.2 must be deleted.

The vision of James Ham's internal responsibility system wasn't to make workers jump through hoops; it was to give workers a right to participate and a right to have worker representation while doing so. This piece of Bill 160 goes against the intent and spirit of what workers require: a collective voice without impediments.

Our fifth and final area of concern: the threat to the autonomy of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers. It is absolutely critical that these key organizations be respected and mechanisms put in place to protect their independent governance. They must retain the ability to set their priorities, approaches and philosophy, and to develop content, services and information that meet these needs and the needs of workers.

The expert panel recognized the current shortfalls in the act relating to training for both workers and employers. The Workers Health and Safety Centre has a history of providing comprehensive and strong training throughout Ontario. It has literally trained hundreds of thousands of workers and employer representatives during its existence. The success of the centre model and its programs must not be compromised. We will not accept or support a bill that will allow threats to the Workers Health and Safety Centre. The centre's work has prevented countless injuries and fatalities, and must continue to do so.

Finally, if our sick and dying miners in Elliot Lake had had an organization to go to like the Occupational Health Clinics for Ontario Workers, perhaps some of them would still be alive today. Tragically, thousands of workers still die every year from occupational disease and cancers. Prevention will be the key to the elimination of these slow and painful deaths. The OHCOW clinics play a monumental role in this and should be commended for the work they do with victims, their families and the joint health and safety committees.

Let us repeat that these organizations must be respected and protected to ensure their independent governance and ability to set their priorities, approaches and philosophy, and must remain strong and intact to meet the needs of workers and employers.

In closing, your government has a moment in history to make the positive change required to improve and save the lives of working people in Ontario. I hope you don't let this opportunity pass you by.

Thank you for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Scibetta, for your precision timing on the remarks and for your presence today on behalf of the United Steelworkers.

MR. ROLLY MARENTETTE

The Chair (Mr. Shafiq Qaadri): I invite our next presenter, Rolly Marentette, who's coming to us via conference call.

Mr. Rolly Marentette: Yes, good day. My name is Rolly Marentette. I'm the chair of the Windsor and District Labour Council health and safety committee.

The Chair (Mr. Shafiq Qaadri): Thank you. You've got 10 minutes to present. Welcome to the social policy committee: Dr. Qaadri, Chair. Please begin.

Mr. Rolly Marentette: Before I begin, I would like to basically explain a little bit about my background. I spent 35½ years working for Chrysler Canada before retiring in 2004.

During my working life, I did many jobs. In 1968, when I was first hired, I worked in the maintenance department, cleaning offices and the nooks and crannies of the assembly plant. I worked in areas that contained asbestos, and worked with slow-stripping chemicals that took the skin off my hands. At the time, I wasn't told what they were, and the employer didn't have to tell me.

I soon transferred to the engine plant, where I worked in machining, and I operated grinders, boring and drilling machines that used cutting fluids or honing oil. This produced a curtain of foul air hanging in my breathing zone and covered me from head to toe. The air was so full of smoke, mist and oil, it was difficult to see.

I also spent time on the assembly line in jobs that forced one to bend like a pretzel or work in other contorted positions that continue to cause me physical pain to this day.

This was my experience before 1979, when the Occupational Health and Safety Act was enacted, and before 1988, when WHMIS became a reality. This was also before I had any health and safety training.

I became a full-time CAW health and safety trainer at Chrysler in 1992, and spent many hours instructing workers. I also volunteered to train in health and safety in high schools in the community in Windsor-Essex. Since retiring, I've been doing the health and safety class for the unemployment centre here in Windsor the second Friday of every month.

As the chair of the health and safety committee, along with members of the committee, we provide training for

many union and non-union workers on a continuing basis. As recently as this past Saturday, we trained 20 participants in workplace violence training for workers whose employers are not providing it or addressing their complaints in their workplaces.

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My last four years, from 2000 to 2004, I was a regional ergonomic representative for all Windsor Chrysler Canada operations. My responsibility was to work with engineers to design new products and with vendors who made the parts used in assembly. The ergonomic committee at Chrysler allowed us to make workstations adjustable and worker-friendly. We saw a dramatic decrease in injuries because we were eliminating the hazards of bad work design instead of blaming it on poor work habits.

In Ontario, over 40% of reported injuries are soft tissue injuries. Imagine if we had legislation that made joint ergonomic committees mandatory and they had to address the hazards.

My experiences as a trainer and ergonomic representative afforded me the opportunity to speak directly with the people most affected by the hazards on the job: front-line workers and supervisors. In fact, because these responsibilities carried with them a need for certain expertise, this meant I also spent many hours taking training.

Through the years of training I've received, this has been a mixed bag. The ones that have given me the best tools to do my job were those who encouraged discussion and used examples of real-life work experiences, worker to worker. The least effective were the videos with true or false questionnaires. I couldn't imagine using smart phones, Twitter or other impersonal training methods.

As an instructor with the workers' centre and a frequent user of the Occupational Health Clinics for Ontario Workers, I have access to research that explains the hazards and effective means to deal with them. The worker-centred courses are designed with input from workers who have experience dealing with particular hazards, which are then shared with workers across the province.

When Dr. James Ham presented the idea of the internal responsibility system, he saw this as a crucial step for major change in Ontario workplaces. He saw the benefit for both workers and employers in giving workers the opportunity to use the knowledge gained from many years of on-the-job experience. He also saw the fairness of those exposed to these hazards having a strong voice at the table. To share the vision of Dr. Ham, it's imperative that worker representatives have access to the best available resources.

I'm concerned that the workers' centre and the occupational health clinic's ability to provide us with those resources could be jeopardized unless their autonomy is ensured and strengthened through Bill 160. All joint health and safety committee members must have standardized certification training with annual renewals. Workers must also have the choice of the training organization enshrined in the act. Training criteria for workers must be defined in the legislation as to content, delivery method and length, with regular reviews and updates.

Too many employers promote behaviour-based training; that is, the worker's bad habits, poor lifting techniques, carelessness, not paying attention, accident proneness, and bad luck are part of this belief. Well, bad luck might be an excuse when you don't win the lottery, but it's not the reality. Contests and other workplace programs that discourage injury reporting should be outlawed and punishable by escalating fines for each subsequent charge.

Supervisor training should be mandatory; imagine, many of the union representatives speaking up for supervisors. Through the years, I've met many supervisors who had not had any training in their duties under the act. For those who have, they are often caught in the middle of trying to comply with the legislation and keeping upper management happy when trying to do the right thing. They don't know about section 50. Even if they did, section 50 of the act, which speaks about reprisals, has no teeth. Workers roll their eyes and laugh when this is mentioned. Worker after worker reads stories of threats, suspensions or layoffs after work refusals, or firing after reporting an injury. Going to the Ontario Labour Relations Board is a long process and most workers give up before completion. Driving to Toronto for hearings, taking time off from their new employment, and lack of representation for non-union workers are a deterrent. Giving ministry inspectors more powers to address these issues would make more sense.

The makeup of the advisory council is troubling to me. Dr. Ham respected the workers of Ontario enough to ensure that they had the right to participate through joint health and safety committees. He not only had respect in mind, but also the wisdom to guarantee that workers would have representation on those committees. Why would the advisory council be any different? The most effective workplace health and safety committees have proven that this is a winning formula for workers. Isn't this about workers? Isn't this about progress?

Under Bill 208, the Peterson government in 1990 established the agency, which had an employer chair, a workers' chair and was 50-50 in composition. Bill 208 also emphasized accreditation, which is based on best practices of prevention instead of being driven by statistics, as we are now. Why not use this experience as a model?

In closing, although the fatalities of the workers in December 2009 were the precursor of the Dean report, I didn't need this as a wake-up call. It was with dismay that I sat and listened to the debate in the Legislature during the first and second reading of Bill 160. Speaker after speaker stood up and boasted about Ontario's great record of health and safety. Obviously, a lot of this is based on statistical information and not personal experience. Since 1990, I've chaired the local National Day of Mourning committee and dealt with many survivors. I remember the family of Jamie Barker, who died as a result of a scaffolding malfunction on the Ambassador Bridge here in Windsor. I remember Brenda Dietrich,

whose 18-year-old son was crushed to death in a conveyor system as a result of employer neglect on his third day on the job. I remember Cindy Libby, a single mother who was crushed and killed by a roll of steel. I remember Claudio Cardoso, who was killed when a steel racking system collapsed on top of him. Claudio's wife, Veronica, must now raise two little boys on her own. Recently, Ed Madigan, another Windsor worker, was killed when pinned by a forklift, and his family will be laying the wreath at this year's National Day of Mourning ceremony. These and other victims cry out for justice.

This is the first comprehensive review of the Occupational Health and Safety Act in 32 years. By God, let's get it right.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marentette. I've got 20 seconds a side. Ms. Jones.

Ms. Sylvia Jones: I'll just thank you for your presentation, Rolly.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: I feel like I know you personally. That was a good presentation, and I agree with you.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Mr. Marentette, thank you for your excellent presentation. We've taken notes and appreciate your comments today.

Mr. Rolly Marentette: Thank you.

The Chair (Mr. Shafiq Qaadri): And thanks to you, Mr. Marentette, for talking to us. Thank you very much.

ONTARIO NURSES' ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Ms. McKenna and Mr. Walter of the Ontario Nurses' Association. Welcome. I'd invite you to please begin now.

Ms. Vicki McKenna: Thank you, and good afternoon. My name is Vicki McKenna. I am a registered nurse and the first vice-president of the Ontario Nurses' Association. With me today, to my left, is Lawrence Walter, and he's ONA's government relations officer.

ONA is Canada's largest nursing union. We represent over 55,000 registered nurses and allied health professionals, along with 12,000 nursing student affiliates who provide quality care each and every day in hospitals, long-term-care homes, our public health units, the community, clinics and in industry.

I want to acknowledge the government's success in driving significant occupational health and safety progress in the health care workplaces in Ontario, with examples such as safe needle legislation, violence prevention and a special health care safety unit in the Ministry of Labour. We have seen enhanced enforcement in the health care sector, demonstrated by increased orders and prosecutions affecting general and specific deterrents, that has raised health and safety consciousness in our sector.

While ONA acknowledges this progress, it's not perfection. Our members still suffer violent attacks causing serious injury, and unprotected tuberculosis and other exposures, causing disease that workers bring home to their families. Employers still do not report critical injuries, and there are unprotected exposures to health care toxins, examples of which include chemotherapeutic agents, drugs and anaesthetic gases.

The expert panel followed an outcry for enhanced enforcement after tragic workplace fatalities. Hard work by stakeholders produced a consensus report with recommendations that ONA endorsed.

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The major accomplishment of the expert panel was the broad consensus that prevention be moved from the Workplace Safety and Insurance Board and a new entity, the chief prevention officer and chief prevention council, be set up in the Ministry of Labour. This consensus was hard-won.

In the spirit of progressing to safe and healthy workplaces, labour made concessions which included abandoning its call for an independent, stand-alone prevention agency on the understanding that the new entity would be semi-autonomous. Labour argued that increased worker power is needed to make workplaces safer and healthier, but in the spirit of progress, settled for what was offered: a new power for the joint health and safety committee co-chair to send written recommendations to the employers.

We are pleased that the bill set up the new CPO and CPC, and provided for the Office of the Worker Adviser representation for unorganized workers. However, parts of the bill actually contradict the quality and the spirit of the expert panel's recommendations and threaten to undermine the consensus won by stakeholders.

ONA has five main concerns with Bill 160 as written, and we have outlined them in our written submission. I will summarize those today.

First is our concern related to the accumulation of power by senior Ministry of Labour bureaucrats to write law. We are deeply concerned about section 3 in the bill that gives directors in the ministry the authority, without any oversight or warning, to publish policies that have the force of law. We cannot accept any legislation that gives the government of the day these unnecessary powers.

Second, we identify the failure to protect workers from reprisal under section 13 in the bill. Vulnerable workers who are victims of reprisal for their attempts to protect their health and safety are not effectively protected by Bill 160. There was broad consensus that the reprisal section of the act needed to be enforced, but the bill actually accomplishes the opposite, establishing blatant barriers to investigation and enforcement of violations. The interim prevention council's suggestion to allow inspectors to testify only if they have direct evidence of an offence does not resolve our concerns.

Third, we believe that Bill 160 places obstacles to joint health and safety committee co-chair recommendations. The Dean report called for expanded powers to write recommendations, yet the bill establishes additional restrictions on a co-chair to send a recommendation to the employer.

Fourth, the health and safety system is politicized by placing extensive powers in the hands of politicians, not protecting the political independence we expect of a new CPO and not ensuring trade union representation, as promised by the Dean report.

Fifth, we are concerned about the threat to the autonomy of the Workers Health and Safety Centre and the Ontario health clinics for Ontario workers. Mechanisms are needed to protect their independent governance and operation.

Finally, it is ONA's members' workplaces which are decades behind in health and safety practice. There is so much at stake that our members paid the ultimate price that underscored the need for the precautionary principle in occupational health and safety. As Justice Campbell so eloquently explained, health care is "dangerous ... like mines and factories."

Until the Campbell commission report and the government's subsequent actions, there was little attention paid to occupational health and safety in our health sector. Now it appears that Bill 160 is being used as an opportunity to open up the act to accomplish other than what the expert panel recommended. As we approach what would have been Justice Campbell's 69th birthday, it would be more fitting if we were going to reach beyond the panel's recommendations to use this opportunity to pay tribute to him, to honour his legacy and to ensure that, as he suggested, "the precautionary principle, which states that action to reduce risk need not await scientific certainty, be expressly adopted ... by way of inclusion, through preamble, statement ... or otherwise, in the Occupational Health and Safety Act" itself.

We do not believe that the provisions of Bill 160 that we have identified reflect the government's otherwise demonstrated commitment to Justice Campbell's legacy and to worker health and safety. We urge the standing committee to consider amending the bill, as we have highlighted.

We've come a long way in the health care sector. Now is not the time to reverse any progress.

The Chair (Mr. Shafiq Qaadri): We have about a minute per side, beginning with Mr. Miller.

Mr. Paul Miller: That was an excellent presentation. I just want to ask you: Obviously, in the medical field, the inspectors who are assigned to come in and look at safety and health problems in the hospitals or long-term-care facilities—do you feel that they are qualified? Do they come from a medical background or are they just reading a handbook? How do you feel about that?

Ms. Vicki McKenna: What we know is that there has been some additional training to support some of the inspectors coming into the health sector. The health sector is like brand new ground for many inspectors, and the background is not there. That's why we were so encouraged when there was actually a division or a sector set up within the Ministry of Labour and that there was some progress being made.

Mr. Paul Miller: Because it's a new field, you probably are going to end up feeling the same frustration I have for 30 years: that they lack meat when they do come.

Ms. Vicki McKenna: Yes.

Mr. Paul Miller: Sometimes they get overridden, and the reports that they put in somehow don't end up resulting in fines or any positive actions taken. I hope you don't have that—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Ms. McKenna, for your presentation today.

Mr. Paul Miller: He cut you guys off that quick.

The Chair (Mr. Shafiq Qaadri): Mr. Miller, I'd respectfully ask for less intimidation in the workplace.

Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I just want to thank Ms. McKenna and Mr. Walter for appearing here in front of the committee. We are taking notes, and you made a very thorough presentation. We thank you for that and, on behalf of the government side, we thank you for being here today.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Ms. Jones?

Ms. Sylvia Jones: Thank you for your presentation. You are the first presenter who has brought up the precautionary principle, which I find intriguing. Are you aware of any other legislation where the precautionary principle has been inserted?

Ms. Vicki McKenna: Well, the Health Protection—what are you saying, Lawrence? Sorry?

Interjection.

Ms. Vicki McKenna: The Health Protection and Promotion Act, yes, but we need it here too.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): You have concluded, Ms. Jones?

Ms. Sylvia Jones: That was my question.

The Chair (Mr. Shafiq Qaadri): Thank you very much to the committee members, and to you, Ms. McKenna and Mr. Walter, for coming forward on behalf of the Ontario Nurses' Association.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair (Mr. Shafiq Qaadri): I understand our next presenter is available. Mr. Chera, are you available? Yes. I invite Mr. Chera to come forward on behalf of the Canadian Federation of Independent Business and invite you to please begin now.

Mr. Satinder Chera: Thank you, Mr. Chair. My name is Satinder Chera. I'm the vice-president with the Canadian Federation of Independent Business. I appreciate this opportunity to appear before the committee today in respect of Bill 160.

Let me first start off by saying that we agree in principle with the direction that the government is headed in with Bill 160. One of the concerns that we raised with Mr. Dean during his deliberations last year was the fact

that the current occupational health and safety system is so disjointed that no one really knows where it begins and where it ends. Certainly the small businesses that I represent have often made the point that, one, they're not quite sure where they are supposed to go to get the information that they require, and even when the information is brought to them, it's not very clear or issue-specific or business-specific. In fact, on the right side of the kits that are before you, the presentation we gave to Mr. Dean certainly talked about the challenges that small businesses face with the Occupational Health and Safety Act.

One of the areas that we have also raised—and this was something that Mr. Dean picked up on—is providing support to businesses in terms of the training cost. There's often this myth out there that small businesses don't train. Well, in fact, a study that we did a number of years ago concluded that small firms spend about $18 billion a year in Canada on training their employees, and they do that for obvious reasons. One is to grow their staff, health and safety, and to retain them.

But of course, costs continue to rise, and one area that Mr. Dean certainly noted in his recommendations that government should take note of is to potentially provide a tax credit to businesses in terms of helping to offset some of the costs that are associated with the Occupational Health and Safety Act. We think this is very much something that the government should be looking at in terms of moving forward on Bill 160. We hope that, in your final report, you'll strongly recommend that at the very least the Minister of Labour review this recommendation. It would certainly go a long way in helping small firms.

The other area that we're worried about, of course, is the regulatory burden this places on businesses. I fully appreciate the fact that a lot of the nuts and bolts will be ironed out as part of the regulations that will accompany this legislation, should it pass in the future. But we would ask the committee to again take note of the fact that the government, through its Open for Business initiative, has made some strong progress in terms of reducing the burden on small firms—not alleviating them of their health and safety obligations, but certainly allowing them to run their businesses in a way that doesn't overburden them but allows them to support their employees.

1550

One of the areas that we would strongly recommend you also take note of is that, as part of the changes that are being contemplated, it not add an additional burden on small firms. Again, as I read through the legislation, there are various areas that are noted specifically with respect to training and ensuring that employees are fully trained when they get to the business. I guess it obviously brings up the concern that employees come and go. How would businesses track, how would they report and what would be the cost associated with this? There are virtually millions of Ontarians right now who are working. How would we ever track that? How would we get that system up and running?

Thirdly, system costs: It has again been noted by the Minister of Labour that as a result of these changes, the obligations that employers currently have to the system under the WSIB, their costs will not go up. Certainly, this is very encouraging, but, going forward, it is something that we'll be watching very carefully because, with the addition of the prevention officer, we are worried. Is this going to turn into another bureaucratic nightmare, one that's going to eat up a lot of the funds that businesses provide to the WSIB, which are now going to be used by the Ministry of Labour in terms of prevention activities? It is our full expectation that each and every cent that comes over from the WSIB will be spent on the prevention front and prevention support to businesses, which they pay for through their WSIB premiums.

Finally, I would say that one of the areas that Mr. Dean talked about as part of his report was viewing this area, occupational health and safety, through a small-business lens. Again, it was very encouraging to hear that there is recognition that there is no one-size-fits-all, that businesses do differ: big, small, they are very different in terms of their expectations, their capacities, the costs that they're able to manage. We would hope, as part of the committee's final recommendations and final report, that the committee pick up on that very sensible note that Mr. Dean noted in his report, which is that a small firm certainly will require additional support, additional help.

Mr. Chair, with that, I would be happy to take any questions the committee might have.

The Chair (Mr. Shafiq Qaadri): Thank you. About a minute and a half per side, beginning with Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Mr. Chera, for your presentation.

The expert panel has recommended the creation of a section 21 committee for small businesses. This will directly support the needs of small businesses. Can you just expand, in the short time that we have, on any other ways that we can support small businesses?

Mr. Satinder Chera: Thank you for raising that point. We have some members that are part of section 21 committees, in the construction area, for example. Certainly, their initial response is somewhat cautious. How is this new section 21 committee on small business going to affect the work that other committees are currently undertaking; for example, small business representation on those committees, and will they now come over to this new committee? Will small firms still be a part of those committees? Is this going to be another layer of duplication? There are a lot of unknowns right now in terms of how this new section 21 committee would work and operate.

As I say, the early feedback we've received from some of our members is cautious, because they're not quite sure how it's going to replace the current ones.

Mr. Lorenzo Berardinetti: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Jones, please.

Ms. Sylvia Jones: You are not the first person who has raised with me the tax break for businesses that do the training. The chambers of commerce that operate in my communities have raised it a number of times. I'm

wondering if there are examples that you could leave with the committee of other jurisdictions that have approached the tax break for businesses that do that training.

Mr. Satinder Chera: Certainly in Canada there is no such tax feature in place, but I would note that there are other jurisdictions, and we're witnessing as part of the federal election campaign each party having their own form of tax credit that they're providing to businesses, whether it be hiring full-time employees or hiring youth, for example, in their business, in terms of offsetting their EI premiums for at least a year, to get young people and others into the workplace. I think that might be a nice way to at least look at how a potential structure might work. That certainly has come up before—how we would potentially manage that sort of a tax credit. And I would argue that there are other examples.

In the mid-1990s, the federal government very successfully put in place an EI hirer's credit, which—

The Chair (Mr. Shafiq Qaadri): Thank you. To Mr. Miller, please.

Mr. Paul Miller: No questions.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Chera, for your deputation on behalf of the Canadian Federation of Independent Business.

CANADIAN AUTO WORKERS, LOCAL 88

The Chair (Mr. Shafiq Qaadri): We have one conference call that is unavailable. Therefore we'll move to our later presenters, if they are available: Mr. Borthwick and Mr. Wright of the Canadian Auto Workers, Local 88. Thanks, gentlemen, for coming forward earlier than scheduled. I'd invite you to please begin now.

Mr. Jamie Wright: Thank you for the opportunity to present to the social policy committee on Bill 160. My name is Jamie Wright. With me, to my left, is Dan Borthwick, who is the president of CAW Local 88. I am a worker member and a certified worker member of the joint health and safety committee at the CAMI assembly plant in Ingersoll, Ontario. We represent close to 2,700 workers. I also chair the health and safety committee for the CAW. At the CAW, we represent over 120,000 workers in the province of Ontario.

We have some concerns about Bill 160 and the way it is laid out. We don't believe that it addresses all of the root causes of the December 24 injury, or the almost 500 other workplace fatalities that have been reported in Ontario last year. I join with the majority of other concerned workers in the province of Ontario, who expressed some similar concerns to Bill 160 that we've heard today: (1) the politicization of the health and safety system; (2) the threat to the autonomy of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers, known as OHCOW; (3) the accumulation of power by senior MOL bureaucrats to write law; (4) a failure to protect workers from reprisals; and (5) placing obstacles to joint health and safety committee chairpersons' recommendations.

Keeping those five points in mind, I'd like to focus most of my presentation today on number four, the failure of Bill 160 to protect workers from reprisals, in reference to recommendations 33 and 35 of the Dean report.

We know that workers' health and safety training, developed and trained by workers—we know that as peer-to-peer training. I'm proud to say that I'm also a certified instructor with the Workers Health and Safety Centre. They've given me the knowledge over the last 20 years to be a health and safety rep in my plant for that period of time. We know the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers have been key to the success, and it's crucial that they maintain their present autonomy and be able to function and represent workers in the province of Ontario.

I have an issue in my plant over a material safety data sheet, and I was able to send that information to the OHCOW clinic. While I was sitting here, they sent me back a technical response on the exposures of the workers I represent. If they weren't here, who would I call? Who would I get a non-biased worker perspective from if that didn't happen?

This foundation is only as strong as the enforcement. Without strong enforcement, the foundation will sooner or later crumble under the pressures. This is true for workers we see who have received education and training in health and safety but are unable to exercise that educated right for a safe workplace.

Let's consider for a moment a worker or a worker member of a joint health and safety committee who is under constant threat of losing their employment, being intimidated, threatened or coerced for identifying safety issues. Let's be blunt: Employers will threaten a worker's livelihood for raising a safety issue in the workplace, effectively silencing those workers until it's too late and they're silenced forever. This happens on a daily basis in the province of Ontario.

Section 50 of the Occupational Health and Safety Act is supposed to provide us that protection as workers on the shop floor. We have two options: We can file a grievance if we unionize, or we can file a complaint to the Ontario Labour Relations Board. Let me say, in the strongest terms: I would suggest, at present, that this section of this act is the least effective piece of legislation in the Occupational Health and Safety Act as it sits today. I would suggest that either filing a grievance or filing a complaint through the Ontario Labour Relations Board is not enough of a deterrent to the employer. This is further compounded if it involves a young worker, an immigrant worker, a precarious worker; they do not have the resources to file a complaint with the Ontario Labour Relations Board.

1600

A Ministry of Labour inspector cannot issue any type of order under this section or prosecute under this section. In my 20 years of experience, I did find one inspector who tried to prosecute under section 50, only to

be turned down by the Ministry of Labour, and it was thrown out of court. On the last day of appeal, the NDP critic stood up in the House upstairs, challenged the Minister of Labour at that time, and she only said that it was an employee relations matter and the issue was thrown out of court. I disagree with that approach.

I don't know if anybody in this room has tried to file an application with the Ontario Labour Relations Board, but if you go on their website, you look for the OLRB unlawful reprisal application under section 50. It's described in information bulletin number 14 under "filing the application." It describes in explicit details the need to provide copies, timelines to be followed, and what has to be delivered to the different parties, including the Ontario Labour Relations Board. It's a very legalized process, and the average worker, I would submit, does not have that available to them to follow that process. A very simplified process needs to be developed that is user-friendly. Presently, the process puts most of the responsibility for filing a complaint on the worker. The responsibility for defence and proof needs to be placed on the employer, not the worker.

Finding the above documents on the Ontario Labour Relations Board website was a task. I would suggest that the ministry look at putting links to simplify that process on their own website. The application process could be made electronically so that all parties are notified. This would save the worker the cost of copying and the postage, which they have to pay for themselves, not to mention that the process is only conducted in Toronto and this is an unreasonable expectation and deterrent for a worker making an average wage who has most likely just lost their job. How can they afford to file the complaint and see the process through? This deters workers from seeing the process go through.

The hearing process needs to be more accessible to the workers throughout the province of Ontario. The hearings officer needs to be accessible to the various communities other than Toronto. Previous practice for health and safety appeals—they did come into your community and it was easily accessible; and again, the use of some technology and some video conferencing.

If the government is to be serious about revising the protection of workers' rights, section 50 needs to be changed forthwith and internal policies need to be adopted within the ministry. Bill 160 does not go far enough in protecting workers from reprisals.

I come here today also with a proposed solution. If you want to turn to page five of my submission, you'll see there's a flowchart. I just want to quickly walk through that flowchart. A worker is reprised against. They should be able to call the Ministry of Labour to come and investigate. The Ministry of Labour should be able to rule if the reprisal took place, and if in fact the reprisal took place, the Ministry of Labour should be able to write orders ordering compensation for the worker or order the worker back to work. They should also be able to apply administrative penalties or prosecutions. That's what should happen in the province of Ontario.

If by no means there's no reprisal, then there still would be an avenue open for the worker to continue on their own to the Ontario Labour Relations Board. If the employer felt aggrieved by the orders, then at that point in time the employer should file the application to the Ontario Labour Relations Board. During that process, the Ministry of Labour should become the respondent party to the employer's complaint. The worker with assistance from the worker adviser is party to the application and procedure, and it is outlined in Bill 160 that that process would be in place.

In conclusion, workers have had the legal right to a safe and healthy workplace but not a practical right to a safe, healthy workplace. Section 50 of the Occupational Health and Safety Act does not protect the young workers, migrant workers, precarious workers or most of the workers in the province of Ontario. I live in the White Oaks community of London, Ontario. It's a blue-collar community consisting of young workers, migrant workers and precarious workers. These are the very individuals who need the practical protection of the Occupational Health and Safety Act. These are the workers who go to work in fear of losing their jobs for expressing a health and safety concern at the workplace. We have an opportunity here to add a true layer of protection from employers who don't care about health and safety and have been getting away with reprisals against workers who do care about health and safety.

Workers need a third party that will act on their behalf without a bias and in a timely manner. That is the role of the inspectorate of the Ministry of Labour. They have to be able to enforce the foundation.

Until workers feel truly protected from reprisals, they will always be hesitant to raise health and safety issues. They won't get involved in joint health and safety committees or challenge a less-than-safe employer. If changes are not made to Bill 160, as each and every day passes, there will continue to be a number of critically injured workers and another worker will die on the job in the province of Ontario. Is this acceptable to you? It's not to me. We need to change Bill 160.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Borthwick and Mr. Wright. In the 10 seconds remaining, I think I'll just take it on my behalf to thank you, on behalf of the committee, for coming forward and for your deposition, which has been distributed to all committee members.

MR. CHRIS MASON

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Mason, who is joining us via conference call. Mr. Mason, are you there?

Mr. Chris Mason: Yes, I am.

The Chair (Mr. Shafiq Qaadri): That's great. We invite you to please begin. You're in front of the social policy committee. You have 10 minutes. Please begin now.

Mr. Chris Mason: Thank you. I'd like to start by introducing myself. My name is Chris Mason, and I have been an advocate of health and safety since 2003, not only in my workplace but in my community as well. I've been elected as a health and safety rep, sat as a member of a joint health and safety committee, held a full-time position as health and safety co-chair, and have also had the benefit of being a health and safety instructor, not only in my own workplace but in many other workplaces as well.

I can tell you, from my experiences in the past, that there are many challenges still out there today that face us in our workplaces when we talk about health and safety. As a member of a joint health and safety committee or representing workers as a full-time health and safety co-chair, there have been many circumstances where I was pressured by my employer for bringing up safety concerns in the workplace.

I can remember being called into meetings where it was just myself for the workers, and the employer would have up to five managers there, all disputing the concern that I had brought forward, trying to intimidate me into changing my point of view. I can remember being in a joint health and safety committee meeting where the employer's side of the committee refused to sign their names to a 21-day letter on a concern that had reappeared in the workplace that in the past they have had an order from the Ministry of Labour to correct. They wouldn't sign, knowing that it was a contravention of the act, because they feared to have their names seen by upper management.

The reason I have asked to speak on this new bill is not only for the workers who were killed on December 29, 2009, but for all workers, because some of the challenges we still face in our workplaces today are unacceptable. As an instructor, I have had the privilege lately to do a lot of training in adjustment centres across southwestern Ontario, and I have had the opportunity to meet many people who are having a difficult time improving health and safety in their own workplaces.

Also, I've asked to speak on this new bill, as I am concerned greatly with the autonomy of the organization that has made a huge impact on my ability to represent workers' health and safety to the fullest.

The Workers Health and Safety Centre has been able to help workers across Ontario with training that is delivered by workers who have lived and experienced the hazards they face. Workers have the ability to have input and participate fully, unlike sitting in front of a computer or using an iPhone. The Workers Health and Safety Centre has helped resist behaviour-based safety programs that blame workers, which I believe was the original idea of Dr. James Ham with the introduction of the Occupational Health and Safety Act.

As an instructor with the workers' centre, I have had the ability to train all different types of workers, including unionized, non-unionized, supervisors and even managers. I can remember many times that supervisors came to me, asking questions because they didn't realize the responsibility they had under section 27 of the Occupational Health and Safety Act. I can recall lift truck drivers who had been driving for 20-plus years, taking the workers' centre's lift truck course for the first time and coming to me afterwards and informing me that they'd learned more that day than in all the other times they were trained, combined. Why? Because of the way they were trained. They had the ability to participate, ask questions and hear real-life examples that workers face in everyday life.

I know that there has been discussion within the government that the Workers Health and Safety Centre does not always follow the same ideas as those in the health and safety associations, but I do have to say that I believe the direction the Workers Health and Safety Centre is taking is what is in the best interests of workers in Ontario. I believe that the workers today need the Workers Health and Safety Centre more than ever, and its autonomy must be protected.

1610

My fear of Bill 160 is that the powers will be placed in the hands of the politicians, which I do not believe was the intention from the Dean report. The Dean report, I believe, was clear in the arrangement of powers between the minister and the proposed chief prevention officer, the prevention council and the health and safety associations, but after reading it in the new bill, it seems that all the power is in the ministry's hands, with no powers to the prevention council and only some duties to the chief prevention officer. It sounds like the minister gets to appoint the CPO and the PC.

Now, will our input into health and safety depend on what government we elect? Will labour have an opportunity to be part of that? If we look into the past, I believe that most of the major changes to health and safety in Ontario have been because of the result of the labour movement, not an individual politician.

One of the major surprises I've seen in this new bill is the lack of real worker reprisal protection. It seems that victims of a reprisal for the responsibility to protect their health and safety are not effectively protected in this new bill. It seems that Bill 160 will place limitations on the ability of inspectors to participate in the Ontario Labour Relations Board hearing and provide input and evidence to protect the worker. I believe that this new bill should reflect a procedure that will help workers to a fair and timely resolution process when a reprisal has taken place.

Many workers can't afford to wait the time it takes to go through the process of an Ontario Labour Relations Board hearing, and also, most workers do not even understand the process. The average worker can't afford to be unemployed for a long period of time, let alone hire somebody, such as a lawyer, to help them through the process.

I'd like to close by asking the committee to please review the recommendation that was made in the Dean report and how it was translated into the new bill, and make sure it was the intent of Mr. Dean when he had developed these recommendations.

The advances that workers have been able to make in the past should not be threatened in the future to follow a path we've been down before that was not in the best interests of the working people in Ontario. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Mason. We have about a minute and a half or so per side, beginning with Mr. Miller.

Mr. Paul Miller: Hi, Chris. Good job; your presentation was great.

Personally, I don't get too excited when I sit on committee, because great amendments come in from all kinds of different parties and probably 99.9% of them never get accepted. So don't hold your breath on this committee passing any amendments that we put forward, because they usually don't, unless it comes from the government side. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Thank you, Mr. Mason, for your presentation. I just wanted to mention that we've heard from a number of presenters, including yourself, on respecting the autonomy of health and safety associations. I also want to mention that the Ministry of Labour values the work that these committees do, and the bill is intended to integrate a system and work together with health and safety associations. So I thank you again, on behalf of the government, for your presentation today.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Ms. Jones?

Ms. Sylvia Jones: Mr. Mason, are there particular items in the Dean report that you would have liked to have seen included in Bill 160? The reason I ask that is, during second reading debate, there were a number of comparisons made to the Dean report and what's actually in the proposed legislation—and lots of holes. Are there particular ones that you would have liked to have seen incorporated into Bill 160?

Mr. Chris Mason: I guess the biggest thing that I had noticed is that it seems like before, when it came to the ministry—I know they've indicated now that their plan is to have only one director to carry out, as far as making legislation changes and stuff, from what I understand, for writing interpretations or policies, where before it seemed like the Ministry of Labour had a few people who would oversee that when they were making a policy or procedure up.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Mr. Mason, for coming to us via conference call.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 5200

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter, Ms. Newman of the Canadian Union of Public Employees, CUPE Local 5200, and her colleague. I invite you to please introduce yourselves and please begin now.

Ms. Tracey Newman: Hi. This is Blain Morin. He is the national representative for CUPE for health and safety in Ontario. I'm sure that you'll be hearing a more complete report from him in future weeks to come.

Committee members, I am the president of the CUPE local which represents approximately 500 educational assistants and designated early childhood educators in a school board that has approximately 50 different sites. You may have noticed that I have not named the board that I work for or the local that I represent. That is for one very deliberate reason: the fear of repercussions for both myself and my members.

I certainly do applaud the efforts of the many people and organizations that have spent countless hours and have dedicated much effort to introducing Bill 160, and I am hopeful that it will prove to be a great step in ensuring that issues of health and safety in the workplace will be more efficiently identified and addressed, not only for the members that I represent but for the many workers across our province for whom safety in the workplace continues to be an issue. That being said, I firmly believe that until there are changes made to Bill 160, the health and safety of many workers in our province will remain at risk unnecessarily.

I feel an overwhelming obligation to present these issues, as I also believe that the government of Ontario, the honourable Minister of Labour and all members of provincial Parliament who sit on the standing committee regarding Bill 160 have a responsibility and a duty to truly listen to the concerns that are being expressed and to give each and every one, whether it be from a vulnerable worker or a union leader, careful consideration.

At the school board where I am employed, we use the single-site health and safety committee system. There is little communication between the different sites and even less communication with the representatives of the different unions who have members in each building. In addition, incident forms and WSIB claims are often not filled in, in what I believe is an attempt to appear without incident or issue. This is often done in a manner where employees are left in fear of repercussions.

I would like to list two examples for you. On October 27, 2009, I attended a health and safety meeting which was facilitated by another local. During this meeting, the health and safety officer for the employer stated that one quarter of its 4,000 employees were not WHMIS-trained. She also stated that our board could be considered in a position of non-compliance with the ministry because committee reports were not completed and filed.

I raised this issue with the health and safety officer, who in turn referred me to the senior administrator of human resources services, who in turn did not respond to my emails. When I raised this as an issue at our next labour-management meeting, I was told that the board was present at the meeting to simply encourage compliance. I was then loosely told, in a term—and I will use it very loosely. I was "advised" that my members who were in the untrained group could be faced with disciplinary action should I choose to further my concerns. I, as the

president of that local, felt very threatened by that statement.

On Wednesday, November 4, 2009, an employee was struck by a student. She notified the vice-principal and then left work to seek immediate medical attention. She did not return to work the next day. I have yet to receive a WSIB form 7 or an incident hazard report, which should have been completed by that vice-principal, who, incidentally, does sit on the joint health and safety committee at the site.

As this scenario was repetitive, and in fact this particular student had sent two other employees to seek medical attention that week alone, the Ministry of Labour was called. A meeting was called by the principal on November 9, 2009, in which the employees were told the following statements:

"We are confident the Ministry of Labour will not find anything wrong."

"You can complain to the school board all you like but the response you will get is that this is your job and it's part of it."

"You signed up for this and you get paid for this."

"If you don't like it, the board will tell you to find another job."

These statements were confirmed by three employees, none of whom would make a complaint with the inspector because they were scared of repercussions and retaliations. The employee who initiated involvement with her union has since been transferred to a different location—a clear reprisal, considering her job still exists and is being performed today by a temporary employee. This has sent a strong and loud message to other employees: Complain and you face reprisal. In case you are wondering what subsequent action that original employee took: None. She was too afraid of further reprisal from her employer.

I am sharing these examples with you to illustrate that vulnerable workers also include my members: women who rely on a specific site to coordinate child care in order to be able to work; women who are sometimes single parents and would not be able to clothe, house or feed their families without their incomes; and workers who, through a relatively low income of approximately $32,000 annually, fear risking dramatic increases to their budgets and travelling expenses after facing the reprisals of being transferred.

I am hopeful that this will illustrate the fear that employers can and do levy on their employees on a regular basis through intimidation and other tactics, turning workers into victims.

1620

Bill 160, as proposed, does not follow the recommendations of Mr. Dean in protecting vulnerable workers, whether in a union or not. Bill 160 must enable workers to more confidently report and testify. This can be accomplished by removing limitations on the ability of the inspectors to appear before the Ontario Labour Relations Board to provide testimony and evidence to protect workers, especially those who fear using their own voice.

Bill 160 needs to do more to protect our vulnerable workers, which includes all workers, unionized or not. Minor changes to the Ontario health and safety act can help to direct this change, and Bill 160 is an opportune time to do so. A simple amendment to section 50 of the current act could include penalties that are regularly enforced in cases of interference and intimidation by employers.

Changes to section 51 would allow trade unions or a safety representative the right to a copy of an accident report, thus adding a voice and support for workers who fear taking action. This is even more important, as many unionized workers are not considered to be vulnerable due to the representation that they receive from their unions. I can clearly tell you that many of my members do not report instances of concern to their union for fear of reprisal, and there is a fundamental disconnect between the unions and my employer. As the president of my local, I am seldom, if ever, advised of safety concerns, and I cannot act on instances that I am deliberately kept unaware of by my employer.

It is the responsibility of you, the elected officials who represent the thousands of workers in each of your ridings, to ensure that Bill 160 is effectively changed to protect your constituents. In saying that, I am deeply troubled by and concerned with the extensive powers that are placed in the hands of elected officials with what appears to be little room for disclosure, debate or recourse. In this democratic society that I truly love and that I support through my hard-earned tax dollars, I am alarmed that Bill 160 gives the directors of the ministry the authority, without any warning or debate, to publish policies that in fact have force that is equal to law. Without debate on the floor of our provincial Parliament, this in fact removes the voice of our elected government, politicians who have been elected to represent the people of this province. Governments need reminding that they are there, in fact, to carry our concerns and our voices and not to create policies secretively and without consultation or debate.

To further this concern, Bill 160, as proposed, places extensive powers solely in the hands of politicians by including the power to appoint the chief prevention officer and the prevention council. In a democratic society, this is not correct. The council could be appointed, but it needs to include equal representation from all stakeholders, including employers, unions and activists. An election from within that council to appoint a CPO would then ensure political independence of the CPO and ensure his or her accountability to the council and to the people of Ontario.

In conclusion, Bill 160 must recognize that the ultimate responsibility for the health and safety of workers in this province lies firmly in their ability to exercise their rights to a safe workplace. By holding those in senior positions responsible and liable in a system where they are regularly receiving fines for blatantly threatening or

coercing employees; by insisting that there be communication with all parties concerned, which includes trade unions; and by placing power in an unbiased council and with politicians who are seeking input and debate, we can all play a part in sending workers home to their families in one piece at night. I know that I never want a call telling me that one of my loved ones is never going to come home again, such as those families received on December 24. Through Bill 160, with further assurances for workers and increased enforcement, we can make sure together that this does not happen again.

I thank you for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Newman, and to your colleague for your deputation and presence on behalf of CUPE Local 5200.

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Cunningham of the Council of Ontario Construction Associations. Welcome, Mr. Cunningham, and please officially begin now.

Mr. Ian Cunningham: Good afternoon, Chairman and members of the Standing Committee on Social Policy. My name is Ian Cunningham. I'm the president of the Council of Ontario Construction Associations, better known as COCA. COCA is a federation of 31 construction associations whose more than 10,000 member contractors operate in all regions of the province in the industrial, commercial, institutional and heavy civil side of the construction industry, and we serve as their voice on matters of provincial public policy.

COCA was well engaged in the work of Tony Dean and his expert panel as they developed their landmark report, with its recommendations for improvement to Ontario's occupational health and safety system. We were extremely pleased when our first vice-chair, Domenic Mattina, was appointed to serve as one of only three employer representatives on the expert panel. We were present at the construction labour-management health and safety committee meeting when then-Minister Fonseca announced the review. We provided advice to Mr. Dean as the review progressed; we were present when Mr. Dean presented his report to the minister; and we were present when Minister Sousa announced that Dean's recommendations would be implemented. We strongly support the implementation of the Dean report, and our continuing interest is to ensure it's implemented in the spirit in which it was intended.

Bill 160, if passed, will enable the establishment of a prevention entity within the Ministry of Labour, provide for a chief prevention officer to serve as its senior executive, allow the creation of a prevention council to advise the chief prevention officer, and facilitate the transfer of the responsibility for prevention programs and services from the Workplace Safety and Insurance Board to the new prevention entity within the Ministry of Labour. All of this is consistent with Dean's recommendations.

With regard to some changes, we recommend the following:

The powers and authorities of the CPO, we believe, should be more clearly spelled out in the bill so that he or she is in a position to lead the new prevention entity effectively. Lines of accountability between the CPO and the minister and the CPO and the deputy minister should be clearly articulated in the bill.

The bill should require the minister to consult with the CPO when he intends to make significant changes to the prevention system, in the same way the bill obliges the CPO to consult with the prevention council when he or she intends to make changes.

Section 22.3(4) of the bill obliges the CPO to create a provincial occupational health and safety plan. It should be clarified that this is a plan for the provision of prevention programs and services and does not include a plan for enforcement. While the plan developed by the CPO should be coordinated with the enforcement plan, it should be separate.

The size and composition of the prevention council should be defined in the bill. There should be an equal number of employer and worker representatives on the council, and not more than one third of the membership of the council should be "other" or at-large members, academics or public members.

Prevention council members should be required to consult regularly with the constituencies they represent on the council, much as the expert panel members did through the review process. Keeping stakeholders informed and engaged is critical to the success of the new prevention entity.

The Office of the Employer Adviser is paid for by all employers who pay WSIB premiums. Under its existing mandate, the OEA is intended to serve employers that do not have resources to access their own legal counsel. While there is no correlation between the number of employees and available resources, currently the OEA is mandated to serve firms with approximately 100 employees, plus or minus, and generally steps up in cases where important legal precedent could be set. Bill 160 expands the mandate of the OEA to support employers in cases dealing with alleged worker reprisals, and the threshold for offering these new services should remain the same as it currently is in the bill, consistent with the OEA's threshold for its current mandate. I suggest that because I think others have suggested reducing that threshold to 50.

Every construction workplace is different, and section 12 of the bill encourages employers to identify safety practices that work best in their workplace. It allows for approved codes of practice but does not require employers to follow codes of practice. The language in section 12 that states, "A failure to comply with the approved code of practice is not, in itself, a breach of the legal requirement" should be changed to "Choosing not to comply with the approved code of practice," etc.

Clearly, choosing not to comply is not "a failure." We believe that this was simply an inadvertent or poor choice of words by the drafters and should be changed.

1630

Foremost among our other concerns regarding the transfer of the responsibility for prevention services and programs from the WSIB to the Ministry of Labour, which may not specifically relate to Bill 160, is financial accountability. Our members are concerned that there may be no financial accountability for the prevention component of their WSIB premiums. Should Bill 160 be passed, employers will continue to pay premiums to the WSIB, and part of that premium will be an amount to fund prevention programs and services. It's our understanding that the WSIB will forward the prevention component from employers' premiums to the Ministry of Finance and that the Ministry of Finance will then forward those monies to the Ministry of Labour. With all of these hand-offs and commingling of funds intended for prevention with other funds along the way, there seems to be a strong possibility that some of the employers' investments intended for prevention could be put to other uses. A clear accounting trail of prevention monies paid to the WSIB by employers that flow eventually to the new prevention entity within the Ministry of Labour must be created annually and reported to employers.

Thank you for the opportunity to appear today, and I'd welcome your questions, if there's time.

The Chair (Mr. Shafiq Qaadri): About a minute or so per side. Ms. Jones.

Ms. Sylvia Jones: Yes, thank you for your presentation. I'm glad you raised this point, that there may be no financial accountability for the prevention component of the WSIB premiums. I've spoken to a number of employees who, when I raise Bill 160, say that part of the motivation of decreasing your WSIB premiums is to try to improve your practices internally. Their concern is that by separating, you're not then going to be able to try to lower your WSIB premiums. Are you seeing any of that with your—

Mr. Ian Cunningham: No. Of course, the Arthurs review is ongoing, looking at the funding of the workers' comp system. It's my understanding that if Bill 160 is passed, employers will continue to pay a component of their premium for insurance, a component for prevention and other legislative—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Miller.

Mr. Paul Miller: I've got two quick questions. You don't see any room for confusion by the prevention officer when he can be overruled by the minister and he could take a different direction under government mandate? I don't see that mentioned here. The other quick question is, I'm quite surprised that, from a construction association, there's nothing on section 50, which is intimidation in the workplace. That's a huge factor, and I don't see it anywhere in your submission, so I'm a little concerned about that.

Mr. Ian Cunningham: I may have missed—

Mr. Paul Miller: Okay, the first one: Are you concerned about the chief prevention officer reporting directly to the minister and the minister can overrule him on his decisions? Do you feel that there could be some confusion and safety and health organizations could be adversely affected?

Mr. Ian Cunningham: Ministers of Labour that I have known over the years have a genuine interest in health and safety. I'm not seriously concerned over that. I understand that the chief prevention officer will be likely to be both management and a person with health and—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Mr. Cunningham, for coming here today. Just a quick question on your final point about financial accountability: At the end of the day, the ministers, whether it be the Minister of Finance or Minister of Labour, are accountable to the Legislature for any financial matters. You mentioned here that you want a clear accounting trail of prevention monies paid by the employers. Can you just elaborate on that a little bit?

Mr. Ian Cunningham: Currently, the WSIB is accountable for those monies because they deliver prevention. Some of the monies that employers pay currently go to the Ministry of Labour for enforcement services. In that regard, there is a reluctance for the Ministry of Labour to be held accountable to employers or the WSIB for delivering on enforcement. There is the potential for commingling of those funds—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti, and thanks to you, Mr. Cunningham, for your deputation on behalf of the Council of Ontario Construction Associations.

TORONTO WORKERS' HEALTH AND SAFETY LEGAL CLINIC

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters, slightly out of order: Mr. Bartolomeo and Ms. Vannucci, on behalf of the Toronto Workers' Health and Safety Legal Clinic. Welcome, and I officially invite you to please begin now.

Ms. Linda Vannucci: Thank you for the opportunity to speak to you today. I'm Linda Vannucci. I'm the director of Toronto Workers' Health and Safety Legal Clinic. With me is John Bartolomeo, the staff lawyer. I will begin.

We are a specialized legal aid clinic, and our field is occupational health and safety. We're one of nearly 80 legal aid clinics in the province. We provide information about health and safety hazards that workers can face in their employment. We provide them with, primarily, legal advice about their rights under the law and with legal representation, where required, primarily before the Ontario Labour Relations Board. Our clients are non-union workers. We do this advocacy, and we also have a public legal education and outreach program. We have

one person dedicated to that work, aimed at immigrant workers and aimed at law reform. Our activities are controlled by a board of directors.

Our clients are the vulnerable workers. They're very low-wage workers. They earn $16 an hour, for someone who has a family with four children, or usually less than $12 an hour, and are typically minimum-wage workers. This is potentially a very large segment of Ontario society—non-union, low-wage workers—that we represent.

Our experience, in 20 years of the clinic, has been that when these people complain about health and safety or try to get improvements in health and safety or avoid injury at work, they get fired. Our frustration has been that often, these people who get fired have a great deal of difficulty finding us to represent them at the labour relations board, so they're often without recourse, the result being that there's a lot of silence at the workplace. I think people are put in a position where they have to choose either their job or their health, and they choose their job. Primarily, these low-wage workers are in a particularly precarious situation, because if they do go on unemployment insurance, they're getting 55% to 60% of their wages, and these are very low wages. They can't live on that money, so they're one step from welfare.

We looked at Bill 160 and we asked ourselves: What does Bill 160 achieve for our clients, for non-union workers? How does it help those who complain about a lack of help with their reprisals? I think if our clients read the bill, they wouldn't see much in it for them. Would people like the survivors and family members of those five newcomers to Canada who fell from the scaffold see much for themselves or people in their situation in Bill 160? These are the questions that really trouble me.

I can say a few positive things about the bill. I think standardized training is a good thing. I think entry-level training for all workers is a great thing, and fall-protection training is as well. We can't argue with this. But the devil will be in the details, in how this training is implemented, what the content of it is and whether it really does constitute training.

I think that even the most rigorous, uniform training on hazards and on legal rights, such as the right to refuse unsafe work, will not be used if people are fired as a result. This fear of reprisal, like I said, keeps people quiet.

Our brief to the expert panel was based on the fact that there would be limited resources available, so what we wanted was increased enforcement. We wanted action; we wanted more inspectors on the ground so that workers wouldn't have to risk their jobs in order to have health and safety improved at the workplace. We felt that it's a good thing to have the transfer from the WSIB to the Ministry of Labour, for greater accountability, but we wanted the money dedicated to the front-line inspectorate: to move away from the complaint-based system that currently exists, where people have to risk their jobs.

Secondly, we didn't want them to have to stick their necks out, as I said. We like the idea of the referral by the inspector to the OLRB, but we also wanted them to be referred for legal help as well.

The act has a provision for the Office of the Worker Adviser and Office of the Employer Adviser to act for both parties. I think, with respect, that employers do not require free legal help on reprisals before the Ontario Labour Relations Board. Their poverty level, or their need, does not come anywhere near that of the workers we represent, so we just don't like that provision.

Now my colleague is going to speak about a suggested amendment.

Mr. John Bartolomeo: With respect to section 13, the proposed amendments to section 50 of the Occupational Health and Safety Act: While we applaud the ability for inspectors to refer matters to the Ontario Labour Relations Board, the foreclosure of the ability to actually participate at the hearing is troubling. Where the inspector, in a case where the inspector is making the referral, sees that the worker isn't aware of their rights, sees that the recourse is at the labour relations board and sees that the labour relations board needs to address this matter, they may very well be the only witness to the events that give rise to the reprisal. To restrain them from being able to participate at the hearing effectively forecloses or limits the possible benefits of that referral.

1640

With respect, if the inspector is going to make the referral, the inspector's voice should be heard because, clearly, this is a circumstance where the worker's voice can't. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much for your presentation. We have about a minute or so per side, beginning with Mr. Miller.

Mr. Paul Miller: I get the drift that a lot of people are obviously not aware of their rights. They're intimidated in the workplace and have nowhere to turn, except they may go to a legal clinic for advice because they're afraid to bring it up in their place of employment and they may have been dealt a financial and psychological blow.

I share your opinion that inspectors should have more ability to actually make decisions on the job site and give fines. I also believe, as you said, that they should be able to appear at appeals or hearings to give the full scope of the story. Would you agree that workers aren't able to communicate as well? It could be a language barrier, it could be intimidation, or they're afraid. Does that happen?

Ms. Linda Vannucci: I think there's a perception that inspectors have credibility. They're objective third party witnesses, and so that would be helpful to the worker side.

Mr. Paul Miller: Of course we'd want to make sure that inspectors are fully trained and learned in their inspections and the workplace that they take care of. Some inspectors may take care of steel mills; some may take care of forestry; whatever. If they're schooled in their area of expertise, that certainly would help, too. Would you agree?

Ms. Linda Vannucci: That would help. It would help if there were more of them.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I just want to thank Mr. Bartolomeo and Ms. Vannucci for their presentations today. We've taken notes. It's a very good presentation. On behalf of the government members, I want to thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. To Ms. Jones.

Ms. Sylvia Jones: Quick question: Can you tell me how your clinic differs from referring someone to the Office of the Worker Adviser?

Ms. Linda Vannucci: We have income limits on who we can take, so we cannot represent people who fall outside our income criteria and we can only represent non-union people. I think the Office of the Worker Adviser does not have financial eligibility criteria.

Ms. Sylvia Jones: But you would offer similar advice?

Ms. Linda Vannucci: If they begin to be empowered to do these matters, yes, we would offer similar advice.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Ms. Vannucci, and to you, Mr. Bartolomeo, for your deputation on behalf of the Toronto Workers' Health and Safety Legal Clinic.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 254

The Chair (Mr. Shafiq Qaadri): I'd invite our next presenter to please come forward, Ms. Marion of CUPE, Local 254, and colleague. Welcome, and please begin.

Ms. Lisa Marion: Good afternoon. I'd like to introduce Blain Morin, who's the national representative for health and safety for CUPE national. My name is Lisa Marion. I thank you for the efforts with Bill 160, but I do see some big downfalls. I am an instructor for the Workers Health and Safety Centre, and my concern is that the Workers Health and Safety Centre and OHCOW both need to remain autonomous.

Some of the roles that I've played in health and safety: I've been co-chair for a joint health and safety committee. I currently work for the department of environmental health and safety for Queen's University. I personally have experienced some of the backlash of bringing hazards to the employer. There's definitely still a mentality out there that, "We don't want to address hazards; we want to punish the worker who brings the hazards to the attention of the employer."

I've worked hard to reduce and eliminate hazards. Some of the hazards that are present in my current workplace: We have physical hazards; we have chemical hazards. Today, before I left the workplace, I checked, and we currently have 4,887 chemicals in my workplace. In addition to chemical hazards, we have biological hazards, we have radioactive hazards, ergonomic, and now we even have nanotechnology coming into the workplace. These are all things that we need to be addressing from a hazard-based perspective.

Why am I here today? I'm here because we can't allow what's happening in our society to continue. We have two deaths in the workplace every single workday.

I'm concerned about the independence and autonomy of the Workers Health and Safety Centre, which I consider to be the only place that's providing proper training to workers: where workers are able to understand and identify hazards in their workplace, assess those hazards and recommend controls to be put in place to eliminate those hazards in their own workplace.

The Workers Health and Safety Centre programs teach people how to research the hazards, and the programs are designed to encourage input from workers. That's really key, because then workers can go back into the workplace and apply what they've learned in the course that they've just taken.

Some of the things I've seen in these courses is, some workers enter and they don't even understand that they have one hour of prep time before their joint health and safety committee meetings, and they're so thrilled to hear that they have this one right. When you get to see that, something that clicks for the workers, that they know they can take back into their workplace and put into play, then that's everything.

We have to keep away from computer-based training, because computer-based training is nothing more than—I've even seen the programs where, if you click on the wrong answer, it won't allow you to advance to the next page; you have to stay on that page until you hit the right answer.

The advantage with the Workers Health and Safety Centre's training is that there's an instructor in the course, and it's a hazard-based approach. It's giving the workers the ability to (a) ask questions, but (b) you're able to tell that they've understood what you've said.

My fear about Bill 160 is that this bill gives the minister and bureaucracy powers to use directives on literally anything. Some have said that these powers are just to protect taxpayers from possible financial misuse, but there have always been rules around appropriateness. In 25 years, the Workers Health and Safety Centre has never had a problem meeting the rules. Financial appropriateness is not the issue. The issue is that these powers go far beyond ensuring financial accountability.

My request today is that you'll please consider amending this bill to restrict the government power over the Workers Health and Safety Centre and OHCOW to what it should be. The Workers Health and Safety Centre and OHCOW must remain independent and autonomous, and they must serve our training participants well, as they have in the past.

Thank you for your time.

The Chair (Mr. Shafiq Qaadri): Thank you very much. We have about a minute and a half per side, beginning with Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you for your presentation today. A quick question, just on the issue of

politicizing the system: In your presentation, you mentioned that; many presenters have mentioned that as well. My only answer to that would be, the minister is accountable to the Legislature, so anything that is done within the Ministry of Labour, the minister is responsible for at the end of the day. Do you still think there's a fault with that change, or can you suggest anything that would strengthen that even more?

Mr. Blain Morin: We're worried about the politicization of the system. In particular, we looked at the Ontario Safe Drinking Water Act, and I believe that in that legislation, just like in other legislation in the province, there's that administrative power of the act, but it's not that on-the-ground activity from the ministry. That's what we're really concerned about: the partisanship. Other legislation—I'm thinking that the chief medical officer, for example, has those powers like the CPO would, for example. So our question is, why does the minister have to be right at that administrative level?

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

1650

Ms. Sylvia Jones: It's really just a point of clarification: In your presentation, I think you made an inadvertent error by saying two people die each day from a workplace incident. In your written submission, you say two people each week. So can you clarify which one is—

Ms. Lisa Marion: Oh; work week, sorry.

Ms. Sylvia Jones: Work week?

Ms. Lisa Marion: Five-day work week.

Ms. Sylvia Jones: Okay. But that doesn't match with the next statement of 365 each year.

Mr. Blain Morin: I believe that the 365 was an average. We were trying to say that that's the average yearly. This year was exceptionally high. The numbers have gone up.

We are talking about a work week of five days, and I believe those numbers were based from the WSIB. I do apologize. I think we're looking at them in three different ways and I think it may be confusing.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. To Mr. Miller.

Mr. Paul Miller: A direct question: Do you think that the newly formed situation with the minister, the administrative powers of the minister and the interference of the chief prevention officer will weaken the position of the Workers Health and Safety Centre in any way?

Ms. Lisa Marion: Absolutely. Our concern is that the Workers Health and Safety Centre will no longer remain autonomous. Right now, they have control over the content. It's a worker-based organization that's directed to workers. It's workers training workers. I think that the chief prevention officer will have too much control over the content of the material that's allowed into the training.

Mr. Paul Miller: So in the training program at the health and safety centre, they have WHMIS programs and they have updated programs on all hazardous materials, I'm sure, that come into your workplace in booklet form. You can post them in your shop or your workplace. Do you feel that the health and safety centres have done an above-average job in providing you with the necessary material to get to your membership?

Ms. Lisa Marion: Oh my goodness, yes—and they provide it for free. That's really the key thing. Even if it's just the list of who's on the joint health and safety committee, those are all free from the Workers Health and Safety Centre.

Mr. Paul Miller: So they've done a good job and they don't need any additional bureaucratic levels.

Ms. Lisa Marion: Absolutely.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller, and thank you to you, Ms. Marion, for your deputation on behalf of CUPE Local 254, and to your colleague Mr. Morin.

COMMUNICATIONS, ENERGY AND PAPER WORKERS UNION OF CANADA

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward. I understand you'll be the final presenters for the day: Mr. McMillan and Mr. Moffat for the Communications, Energy and Paper Workers Union of Canada.

Welcome, gentlemen. I'd invite you to please just introduce yourselves for the purpose of Hansard recording and officially begin now.

Mr. Dave Moffat: My name is Dave Moffat, administrative vice-president of the Communications, Energy and Paper Workers Union.

Mr. Keith McMillan: My name's Keith McMillan, staff representative and national representative of the Communications, Energy and Paper Workers Union.

The Chair (Mr. Shafiq Qaadri): Please begin.

Mr. Dave Moffat: The CEP would like to thank the committee for the opportunity to comment on Bill 160, a bill to enable the recommendations of the expert panel on health and safety in Ontario.

The Communications, Energy and Paper Workers Union of Canada was formed in 1992 by a merger of three major Canadian unions, with locals from coast to coast. CEP represents 150,000 workers across Canada, with approximately 50,000 women and men in almost 500 bargaining units. We're one of the largest private sector unions in Ontario. This bill is vitally important to CEP members, and we thank you for the opportunity to submit our comments.

We have deep concerns regarding Bill 160. This bill is not in keeping with the spirit and intent of the expert panel report, which was applauded by CEP. However, the improvements in workplace health and safety contemplated by Tony Dean and his panel can possibly be saved with some key amendments.

Mr. Keith McMillan: Microphone, please? Thank you.

We have assembled our concerns and recommendations into five key issues and reserve our support for the

bill contingent upon all of these issues being addressed appropriately.

Number one, politicization of the prevention system. There is a need for an amendment to depoliticize the proposed legislation. There exists far too much power in the hands of one minister. The resulting potential for partisan decisions to be made in an arbitrary way could ultimately increase worker injury and death.

This problem could be alleviated by vesting the proposed CPO and council with powers and duties over training standards and designated health and safety delivery organizations, in conjunction with an amendment to ensure labour is represented on the council in at least equal numbers as employers. Labour input to the prevention system with equal standing among all parties is essential to CEP.

Secondly, the threat to the autonomy and labour governance of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers: These organizations are vitally important to CEP and our members. No other organizations in the prevention system can deliver on the needs of workers in a way that CEP trusts and respects. These organizations are unique and essential for workers to advance health and safety in the workplace and to represent themselves and their members on equal footing at WSIB. Unions such as CEP have no access to the Office of the Worker Adviser and are expected to defend their members at the joint health and safety committee and WSIB tables, and the expertise needed to defend our members resides at the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers.

Their independent governance and autonomy are an absolute requirement for CEP to support Bill 160. The solution in this case may be to amend Bill 160 to establish mechanisms that protect worker governance of the Workers Health and Safety Centre and OHCOW, including authority over priorities, content, philosophy, approaches and programs.

Third point: There is a lack of real powers in the bill when the internal responsibility system breaks down. This bill needs to level the playing field in the workplace. Employers are free to stall and obfuscate affairs, often to the point that health and safety hazards are not addressed in a timely fashion. There is a need to provide an unfettered right for a joint health and safety co-chair to unilaterally make a recommendation to the employer at any time that the joint health and safety committee reaches an impasse.

In order to maintain the required strength of this section, the current legal employer obligations for responding in writing within 21 days would need to remain intact. I speak on this one from personal experience. I've seen more joint health and safety committees get stalled at the table than you can imagine.

Point four: the undermining of the legal authority of the Ministry of Labour inspectorate. On this point, the bill allows a director to establish written policies on the interpretation, administration and enforcement of the act. It also makes a legal requirement that an inspector follow these policies. This provision has nothing to do with the recommendations of the expert panel report.

CEP feels very strongly that this is an attempt to allow a director to write law, bypassing the Legislature and the cabinet. CEP experience has been that WSIB, which also has power to write policy, has at times done so in a manner that is in contradiction to the Workplace Safety and Insurance Act. Of course, then, this section is of no benefit to workers in any way, and we see it as a detriment to enforcement and therefore to worker safety. Inspectors need to enforce the law and need to be unhindered in how they do so. CEP views this section as an avenue for civil servants to directly undermine many recommendations of the expert panel which are meant to be implemented.

Our fifth point is the lack of real worker reprisal protection. One of the main thrusts of the expert panel report is to strengthen reprisal protections so that workers are protected when they raise health and safety issues. It is well understood and the subject of many conversations at the panel hearings that the workers who died falling from a swing stage on December 24, 2009, were vulnerable workers. This bill does not increase this protection in any way.

Think about their circumstances—those workers—and now think about whether or not these workers would have been so bold as to raise a health and safety issue even with this bill as it's tabled today. We submit to you that they would not. They would not have confidence in this bill today, to be able to speak up against their employer. It would not increase worker confidence against reprisals. This bill needs to ensure and recognize that inspectors should be compellable and competent at Ontario Labour Relations Board hearings regarding reprisals that they have investigated under the act.

There are other weaknesses in the bill, as described quite ably by the NDP at second reading. However, in our short time here, this concludes our submission regarding Bill 160. CEP thanks the committee for this opportunity.

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen. About 30 seconds or so, maybe a minute or so per side, beginning with Ms. Jones.

Ms. Sylvia Jones: I don't have any questions. Thank you for your submission.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Miller?

Mr. Paul Miller: I can see that there's a reoccurring theme here today: section 50, enforcement and intimidation.

Mr. Keith McMillan: Yes.

Mr. Paul Miller: It seems like every group that has presented, including yourself, who represent a huge part of our population, had concerns about this. This government has not dealt with section 50. They've made a couple of comments about it. It's very weak, and I think everybody that has been in this room today has pushed that issue. In your humble opinion, or my humble

opinion, do you feel that this section has not been dealt with? Certainly, over the years, I've seen hardly any enforcement at all; I've seen no follow-up or fines that are serious and get people's attention. Would that be a fair statement?

Mr. Keith McMillan: Yes, it would be absolutely a fair statement. There's no mechanism in there that provides it at any strength whatsoever.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I want to thank Mr. Moffat and Mr. McMillan for appearing here today. I just have a quick question. The Ministry of Labour has heard from a lot of stakeholders—both today and we will hear from more of them tomorrow—on both labour and employer sides, regarding the issue of consistency and how this needs to be improved. You mentioned some—

Mr. Keith McMillan: On how, I'm sorry?

Mr. Lorenzo Berardinetti: How certain inconsistencies need to be improved in the system, especially with regard to the inspectors and how the reporting system works. The reporting system: Can you provide any kind of suggestion on how this could be improved?

Mr. Keith McMillan: From my point of view, inspectors need to enforce the law. So, when they enter into a workplace, they need to be looking at the law and the regulations and not the policies that may be driven from some central office. You might find an inspector having to weigh whether they're going to enforce the law or they're going to support a policy. That's inconsistent to begin with. As far as procedures within the ministry—I'm not sure if that's what you're driving at.

Mr. Lorenzo Berardinetti: No, I think the point that you got to—I'm just thinking of any other inconsistencies—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti, and thanks to you, Mr. McMillan and Mr. Moffat, for your deputation on behalf of the Communications, Energy and Paper Workers Union of Canada.

Just to re-inform committee members, committee is adjourned until 4 p.m. in this room tomorrow for continued hearings. Thank you.

The committee adjourned at 1702.

STANDING COMMITTEE ON SOCIAL POLICY

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Standing Committee on Social Policy

Comité permanent de la politique sociale

Occupational Health and Safety Statute Law Amendment Act, 2011

Loi de 2011 modifiant des lois en ce qui concerne la santé et la sécurité au travail

Chair: Shafiq Qaadri
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Tuesday 12 April 2011

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mardi 12 avril 2011

The committee met at 1601 in committee room 1.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 2011

LOI DE 2011 MODIFIANT DES LOIS EN CE QUI CONCERNE LA SANTÉ ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters / Projet de loi 160, Loi modifiant la Loi sur la santé et la sécurité au travail et la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail en ce qui concerne la santé et la sécurité au travail et d'autres questions.

The Chair (Mr. Shafiq Qaadri): Colleagues, welcome to day two of the Standing Committee on Social Policy. As you know, we're here to hear presentations on Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters.

CANADIAN AUTO WORKERS, LOCAL 1859

The Chair (Mr. Shafiq Qaadri): With that, if there's no immediate business for the committee, I'd invite our first presenter to please begin and welcome her by conference call. Ms. Markus, are you there?

Ms. Susan Markus: Yes, I am.

The Chair (Mr. Shafiq Qaadri): That's great. Could we just up the volume? Dr. Qaadri, Chair of Social Policy. I welcome you to the committee. You'll have exactly 10 minutes in which to present. The time remaining within that will be distributed evenly amongst the parties. As I say, it will be enforced with military precision. I invite you respectfully to please begin now.

Ms. Susan Markus: Thank you. This presentation is respectfully submitted by myself, Susan Markus, on behalf of Canadian Auto Workers, Local 1859. I would like to start by saying thank you to the panel for giving me the opportunity to present my concerns on Bill 160. But at the same time, I'm a little concerned that submissions are being limited and others who share the same concerns will not have that opportunity to present them to the committee.

There are five distinct sections that I wish to address with my submission. Number one would be that Bill 160 places extensive powers in the hands of politicians, including the powers to appoint the chief prevention officer and the prevention council. There is potential for these powers to be used in arbitrary ways or for partisan purposes.

The second concern is the threat to the autonomy of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers. It is absolutely critical that these key organizations be respected and mechanisms put in place to protect their independent governance and the ability to set priorities, approaches and philosophies that meet the needs of the workers.

As an instructor also for the Workers Health and Safety Centre, I can attest to the high-quality, hazard-based programs that are offered currently by them.

A third concern—a deep concern—would be about the section of the bill that gives directors of the ministry the authority, without oversight, without any warning, to publish policies that would have the force of the law. We cannot accept any legislation that gives the government of the day these secret powers.

The fourth issue is failure to protect workers from reprisals. Vulnerable workers who are victims of reprisals for their attempts to protect their health and safety are not protected by this bill. All workers in Ontario have the right to participate, the right to know and the right to refuse, and these must be swiftly enforced. If workers' rights were respected by all employers, we would not have to worry about the protection from reprisals, but unfortunately, this is not always the case. And if more workers understood and used their rights, we would not see the growing numbers of injuries and fatalities occurring in our province.

Bill 160 also places limitations on the ability of the inspectors to appear before the Ontario Labour Relations Board and provide testimony and evidence to protect workers, the very body that workers look towards to make sure that there is a safe workplace.

The fifth one is placing obstacles on the joint health and safety committee co-chairs' recommendations. As written, Bill 160 provides no relief to the worker members of the joint health and safety committee facing stonewalling tactics from the employer side of the joint

committee. The powers of the co-chair to send recommendations to the employer must not be subject to these restrictions. I speak on that very well, being on a joint health and safety committee for 20 years and serving as co-chair for 16 of those 20 years. It's imperative that if we cannot come to a consensus, we have some mechanism that we can forward our recommendations to and have those recommendations responded to by the employer.

Once again, I would like to thank you for this opportunity to present my submission.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Markus. We have about a minute and a half or so per side. I will now offer question time to the PC caucus with Mr. Hillier.

Mr. Randy Hillier: No questions at this time. I'll pass it over.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier. Mr. Miller of the NDP.

Mr. Paul Miller: That was a good presentation, Susan. I have the same feelings you have about the situation.

I saw you started off your submission with being concerned about the length of time that was given to this and the amount of people who could come forward to the committee. I shared the same opinion and I pushed for as many days as possible. There was some co-operation to get to the third day, so that's the best we could do from the NDP's position. We would have liked to have seen it out in the communities throughout northern Ontario, southwestern Ontario, eastern Ontario and, of course, Hamilton and areas like that, but it didn't happen.

Also, you mentioned—it's been an ongoing theme here with section 50—the lack of enforcement and the lack of authority that is given to the inspectors. How do you feel about that?

Ms. Susan Markus: Most workplaces are doing a lot of training. They look to the Ministry of Labour to come in and help them with these issues. The Ministry of Labour's hands are tied and they cannot represent the workers in this case at the labour relations board or even prior to the labour relations board—maybe just putting a stop to it at the workplace at that time instead of time going on. You need to have something a lot stronger for the Ministry of Labour inspector to be able to enforce regarding that.

Mr. Paul Miller: And a lot of workplaces don't even get inspected at the best of times. These inspectors are not allowed to levy any fines at the work site; they have to go through a big process. Personally, I think that they should be allowed to do their job with more authority and certainly put the employers on notice that any unsafe act or safety procedures that are not followed should be dealt with immediately and fined on the spot, if necessary. Do you feel the same?

Ms. Susan Markus: Oh, most definitely. We have an ongoing issue with one of our workplaces that had a very serious accident where a young woman lost her hand. They're still trying to fight over something happening in that workplace. It's been almost a year since that accident happened. So yes, we need to have it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Ms. Markus, you're now with the government caucus. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Ms. Markus, for your presentation. It was very informative. I think you've summed up some of the key issues that came up yesterday during our presentation, so I want to thank you for that.

Just one quick question, if I have the time to put it in: You mentioned that this may serve partisan purposes because too much power rests with the minister. Because we have a chief prevention officer and a council that we're proposing, can you provide perhaps, very briefly, an answer or an explanation as to what would be a better system or how to better work it?

Ms. Susan Markus: Certainly there has to be some sort of a structure, and maybe some ground rules laying out the size of the committee and the chief prevention officer answering to the committee, not the committee answering to the chief prevention officer. What I'm seeing right now is that the chief prevention officer can even unilaterally make some decisions. It's really important that if it's going to be a committee structure that's put in place, then there has to be strong representation from labour as well as representation from the employer side, so some kind of a structure that would be more fair and they can just not make these kinds of decisions without coming forward with what their ideas will be.

1610

Mr. Lorenzo Berardinetti: Thank you on behalf of the government for your points.

The Chair (Mr. Shafiq Qaadri): Thanks, Mr. Berardinetti, and thanks to you, Ms. Markus, on behalf of the social policy committee here in Parliament, and goodbye.

SAFE COMMUNITIES CANADA

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Mr. Kells, president of Safe Communities Canada. Welcome, Mr. Kells. You've seen the protocol. I invite you to begin officially now.

Mr. Paul Kells: Thank you. The consequences of disabled lives and life-altering workplace injuries are personal and they're a human issue before anything else, including a partisan issue. I know because I lost my son to a workplace explosion. So the organization I founded focuses on one thing, and that's preventing human suffering and pain through injury, inside and outside of workplaces. A personal mission of mine has been on the workplace side for many, many years. We do that through our Safe Communities network, which now has 26 communities in Ontario, and through Passport to Safety, which is an online workplace awareness test aimed primarily or targeted, in a non-Sarah-Palin kind of way, to young people.

We support anyone and anybody who demonstrates the ability and willingness to do the right things in the best possible ways. To that, because I've been at this for 15 years, I count in that the Minister of Education for the NDP in the first government I spoke to; Elizabeth Witmer, who supported the enforcement and maintaining the inspectorate during the most difficult times of the early budget cuts; the former chairman of the WSIB, Glen Wright, under whose leadership injury prevention in this province took a great leap forward some dozen years ago; Chris Bentley, Minister of Labour, for doubling the size of the inspectorate; Peter Fonseca for commissioning the Dean report and presenting it; and most recently, Charles Sousa for actually putting the speed and priority behind this that it deserves.

My congratulations to all of you, because my sense is that all parties support the fact that this legislation needs to go forward and that with some modifications here and there, this bill needs to get done.

About the key features of that report, a couple of key points: First, we fully support the recommendations of the Dean report, and while we can always do more in this country, the implementation of the Dean report is a huge step forward.

Second, we're pleased to see that the bill provides for increased responsibility for training, particularly for supervisors, and that a chief prevention officer will have authority and access to any ministry in government.

Third, on enforcement and compliance, work orders, reprisals and the underground economy—there is no room for double standards on enforcement and compliance. If this was a discussion about drinking and driving, would we be having the same discussions about relaxing compliance and enforcement? I do not believe so. Life-altering injures are at stake in both cases. Focus and consistency in leadership around prevention has been diminished in the past few years. This is not the time to let it get even fuzzier.

That having been said, compliance just doesn't happen through enforcement. It's what people do locally to change the culture and what we do in our jobs and our professions to enable and support compliance. There's no magic wand. You have to work at it. An advisory committee is not enough on its own to make that happen.

The system has been focused inward for four years on restructuring and creating its own internal solutions. It does not entertain well solutions outside the box of the system, and so, effectively a lot of the things that are actually causing injuries in this province right now are on hold because of all the restructuring activity. So this is a careful reminder that we no longer have ad campaigns in this province. Our community engagement: We have the data, the surveys that say that the health and safety agencies, the WSIB, have been withdrawing from local community impact over the past couple of years. The Ministry of Labour, interestingly enough, without the prevention mandate, has actually got a greater presence than either of those two organizations, which add the prevention one.

I guess the bottom line of this message is, we don't just want to advise you on what to do. We're already there. We actually want to help it, and we encourage you to reach outside the system and actually indicate by guiding principle or value or statement that the new chief prevention officer, whoever that might be, seek out and be required to search for outside support.

I'll illustrate: Since 2004, 375,000 high school students and employment centre youth participants in this province have completed Passport to Safety; another 60,000 have started it. That's nearly half a million young people in the last five years. Government supported it initially, or at least the WSIB did, but it didn't do it. It got allies outside to do it.

The Ontario Public School Boards' Association gets it. You will get a recommendation from them saying that rather than a stand-alone course, occupational health and safety is part of the mandatory credit course, guidance and career education. This must be done. It's a huge gap that has existed for years.

The school board association has also said it would make sense to connect with Safe Communities Canada, Passport to Safety and "the ongoing work of Paul Kells, whose son Sean died tragically while working (unprepared) at a new job in 1994." So they get that you don't have to build all this from scratch.

I would encourage you to encourage the system. When it comes to supervisor training, for example, my guess is that the system will actually spend millions trying to recreate a system that may already exist and that could actually be adapted much more cheaply.

So here's the thing: We can't afford to do that. You can't reinvent the wheel anymore. You need broad engagement, a culture shift in large volumes at low cost, and you cannot do that through the system spending its own money.

This isn't about an advisory committee giving the owners ideas. It's shared ownership. It's an attitude toward shared ownership that should be spelled out in a preamble or guiding principle or a specifically mandated value.

This time the system needs to be directed on that score rather than have it wither away as it has.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kells. We have a minute per side, beginning with Mr. Miller of the NDP.

Mr. Paul Miller: Thank you, Mr. Kells, for your presentation. It almost sounded like a promotional advertisement for the Liberals at the start, but that's okay.

The enforcement part of it—I didn't hear any of that. You said you had witnessed that there had been problems in your own family about somebody being killed. Were there any fines levied against the company when our son was injured, and was the enforcement followed through?

One of the biggest problems in this bill is section 50. Enforcement has not been followed through over the years. They've even doubled the inspectors, but the inspectors have no weight behind them. They have to go back and report, and sometimes it gets overruled. What do you think about that?

Mr. Paul Kells: The owner of the firm was fired and fined. The justice of the peace reduced the fine. The minister at the time actually appealed that fine; it was reinstated to what the plea bargain was. It should never have been plea-bargained to begin with.

Enforcement: You know and I know perfectly well that we can't inspect every workplace in this province. It's not physically possible; it's not monetarily possible. You cannot hire enough inspectors to do it. So the system has a whole bunch of improving to do to engage other partners who are in enforcement in other ways and to enjoin its citizens to actually participate in the notion of increasing safety.

Do we need enforcement? Yes, we do.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Mr. Kells, thank you for your presentation. On behalf of all the government members here, we appreciate the good work you do and that your work group does in educating people on health and safety. It's very important work, and I just want to say thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Thank you, Mr. Kells. I appreciated your presentation. At the beginning you mentioned that you fully supported the Dean report. During second reading of Bill 160, there were many comments made about the fact that there are a lot of recommendations from the Dean report that are not in Bill 160. Can you share with the committee some specific ones you would like to have seen included?

Mr. Paul Kells: In the legislation specifically?

Ms. Sylvia Jones: Yes.

Mr. Paul Kells: To tell you the truth, I'm not really able to comment on that. What I was endorsing was the direction of the Dean report. I would hope that in the fullness of time they'll all be there. I understand the need right now to get priority things straight, to get in place and done the legislation that enables the whole process to move forward. I expect that the rest of it will come in due course, and I truly hope it will.

Ms. Sylvia Jones: You're more optimistic than some of us.

Mr. Paul Kells: You know what? I guess I wouldn't have been at this for this long if I was a pessimist.

Ms. Sylvia Jones: True enough.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kells, for your deputation on behalf of Safe Communities Canada.

CONSTRUCTION INDUSTRY TASK FORCE

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Mr. Frame, of Construction Industry Task Force, and colleague. Welcome. I'd invite you to please introduce yourselves and begin now.

1620

Mr. David Frame: Thank you. With me today is Karen Renkema. She is the director of government relations for the Ontario Road Builders' Association. I am David Frame. I am the director of government relations for the Ontario General Contractors Association, and I am a former director of prevention at the Workplace Safety and Insurance Board.

The construction industry-WSIB task force was formed in 2008 to be a forum for construction employers to work with the WSIB on compensation and prevention issues. We represent some 1,400 employers operating in a very broad, diverse cross-section of Ontario's construction industry, including residential, heavy civil, industrial, commercial and institutional. Our members employ 70,000 construction employees across the province. Ontario's construction industry is responsible for approximately 25%, or $900 million, of the WSIB's $3.6 billion in total annual premium income. I won't read out the list of our members, but they're there for your reference.

The task force was actively involved in Tony Dean's expert advisory panel on occupational health and safety. We are supportive of the fundamental direction it provides in recognizing important challenges and providing direction to continue to improve the health and safety of Ontario's workplaces.

We will use the few minutes we have today to raise a few of our recommendations on how Bill 160 could be more effective.

The first is on financial transparency and accountability. The Occupational Health and Safety Act directs employer premiums to flow through the WSIB, and then the Ministry of Finance, to the Ministry of Labour, to fund the administration of the act. With the introduction, or proclamation, of Bill 160, the transfer payments will substantially increase to also include the current prevention operations of the WSIB and the funding of the safe workplace associations, also known as SWAs.

The WSIB, as the direct funder of the six SWAs, has a significant number of controls over their funding and performance from the time they are designated. These controls include establishment of standards respecting governance, objectives, functions and operations, and the authority to reduce or suspect SWAs' financial assistance. Bill 160 removes these controls from the board, yet it—and indirectly employers—remains responsible for about $215 million of transfer funds.

As both the funders and users of the system, we are convinced that Bill 160 does not provide for an appropriate level of financial accountability. For example, the safe work associations currently have funding provided by the WSIB, subject to prescribed performance, including financial standards. Bill 160 allows them to be eligible for a grant from the ministry and to be subject to monitoring government directives by the minister. This oversight does not refer to an accountability framework that may include measurable expectations for service outcomes, evaluation of service and assessment of agency service delivery costs to ensure reasonable funding, and that other financial and performance measures are established and maintained.

We recognize that the funding agency, the WSIB, is struggling with an unfunded liability of approximately

$11.7 billion. As a matter of principle, we believe that they must have a level of control over all expenditures in order to better control spending. A strength of the current system is that the WSIB must raise the funds for its prevention operations and the funding of the safe workplace associations so they are subject to their internal accountability mechanisms. When funding responsibilities shift to the Ministry of Labour, this no longer exists and the WSIB loses all control over the current $215 million of funds. The Ministry of Labour then becomes the recipient of a grant, with very few controls on its allocation and accountability for its value for money.

It is our understanding that the Ministry of Labour lacks the experience to administer such grants and, as a result, will be challenged to immediately set controls and measures in place to assure performance. Enhanced guidance in Bill 160 to support the financial performance of funds transferred from the WSIB is required, and we strongly recommend that this committee amend the legislation to establish an interministerial task force chaired by the WSIB president and involving senior officials of the Ministry of Finance and the chief prevention officer from the Ministry of Labour.

Under section 22.3(1)(b), the chief prevention officer is required to provide an annual report to the minister on occupational health and safety but not on the allocation of funds distributed through the WSIB. We recommend that this section be amended to provide a complete financial report detailing the allocation of the grant, thus providing an important point of transparency and accountability.

I'll now ask Karen to go on and talk about the provincial council.

Ms. Karen Renkema: Thank you. I realize we don't have too much time here, so I'll just briefly summarize what we're suggesting here.

We support the continuation of the expert advisory panel members as the current interim prevention council, but we do suggest that the interim prevention council should be assisted by a broader group of sector-specific stakeholders to aid in the implementation phase of the Dean report. Therefore, we would suggest that there be a specific, direct conduit to the prevention council through the construction industry. So we would suggest a separate advisory panel from the construction industry to assist the prevention council as we're going through a transition time period.

Secondly, on education and enforcement, Bill 160 contemplates the removal of prevention activities from the WSIB and into the Ministry of Labour. On the whole, we're supportive of this initiative, because traditionally the Ministry of Labour and its inspectorate were primarily focused on enforcement activities and less concerned with educational opportunities. Indeed, that role was the primary domain of the SWAs. However, with the Ministry of Labour assuming the prevention activities of the WSIB, the line of demarcation between enforcer and educator becomes less clear. Collectively, our members have expressed concern about the new role that the Ministry of Labour inspectors will assume and what guidance they will have as they become both an educator and enforcer.

Therefore, we believe that an "educate first" approach is best in these circumstances, where the immediate health and safety of the worker is not at risk. An "educate first" policy needs to be established by the Ministry of Labour. The SWAs, specifically the IHSA, are uniquely positioned to assist meeting this mandate and should be relied upon to assist the prevention council. Therefore, we would suggest an amendment to the legislation, perhaps under section 3 of Bill 160, that would allow for an "educate first" policy to be written by the director, as the director has the ability to write specific policies.

I'll try to summarize this last part very quickly. It has to do with the current prevention programs within the WSIB and the prevention mandate being removed from the Workplace Safety and Insurance Act. Part II of the Workplace Safety and Insurance Act, obviously, has been completely repealed.

We are concerned that we will lose the ability to continue the prevention programs that currently exist, such as safety groups, and the ability for financial incentives to be tied to these prevention programs. In addition, part II of the WSIA, which would be repealed through Bill 160, allowed for an accreditation program for employees and allowed for financial incentives to be attached to an accreditation program. By removing that section, there would no longer be the ability for the accreditation program to move forward, in our reading of the act, or for financial incentives to be tied to that.

Therefore, we would recommend amendments to the legislation that would allow for incentive-based prevention programs to continue, would direct the WSIB to continue providing funding for such programs, and would highlight the ability of the Ministry of Labour, through the chief prevention officer, to introduce an accreditation program that would receive the benefit of financial incentives provided through employer premiums via the WSIB.

We'll also be providing some further written comments that will further expand on some of the ideas and issues that we have.

We thank you for your time, and if there's time, we're happy to answer some questions.

The Chair (Mr. Shafiq Qaadri): There are about 40 seconds left, in total, so I think I'll just take it upon myself, as Chair, to, on behalf of all members of the committee and, indeed, all members of the Legislature, thank you for your deputation and written submissions on behalf of the Construction Industry Task Force. Thank you.

Ms. Karen Renkema: Thank you.

THUNDER BAY AND DISTRICT INJURED WORKERS SUPPORT GROUP

The Chair (Mr. Shafiq Qaadri): Now I invite our next presenter, Mr. Mantis, who comes to us via conference call, of the Thunder Bay and District Injured Workers Support Group. Mr. Mantis, are you there?

Mr. Steve Mantis: Yes.

The Chair (Mr. Shafiq Qaadri): Welcome to the social policy committee. You have exactly 10 minutes in which to make your presentation. I'd invite you to please begin now.

1630

Mr. Steve Mantis: Thank you, Mr. Chairman and members of the committee. I'm speaking on behalf of the Thunder Bay and District Injured Workers Support Group. We are a voluntary organization based in the Thunder Bay district. We were formed in 1984. We are staffed entirely by volunteers and receive no government funding.

This legislation is really important to us because we're on the receiving end of where the health and safety systems fall down. We are seeing an increase in the number of people coming to us for assistance, we think because of the complexity that is developing within the WSIB, the Workplace Safety and Insurance Board, but also, we think that there are more serious injuries that are happening today than there were some years ago.

The experience of injured workers, once they become injured and if they end up with a long-term injury or a permanent disability, is really tragic. The systems themselves do not keep track. It was interesting: The last presenter talked about performance measures. We have been seeking for the workers' compensation system to bring in performance measures during the whole length of our organization, the 27 years, to really look at what happens to people once they become permanently disabled.

The average over the last 20 years has been that around 12,000 or 13,000 workers end up with a permanent disability as a result of their workplace injury or disease. Those numbers are going up. When we look at the annual report and the statistical supplement of the WSIB, we're seeing that those numbers are now inching right up to 16,000 a year.

This is happening at the same time as the number of injuries that are reported to the system goes down and, even more so, as the number of lost-time injuries goes down. The Ministry of Labour has been celebrating this; the WSIB has been celebrating this. But we think that, in fact, what is happening is that there is an increasing experience of seeing some employers hiding the claims, trying to stop their workers from reporting to the WSIB, and this has a negative impact on the overall health and safety system.

When you develop a culture within the workplace that discourages people from reporting injuries and diseases, the basis, the foundation, of the system is in jeopardy. We know well that there is a pyramid of, first, near misses and then injuries and lost-time injuries, leading up to fatalities. When you start chipping away at that bottom level and say, "Don't report, don't report," then you don't have the information, as management, to take the appropriate action to prevent these types of accidents and injuries from happening in the future. We think that that may be why we are seeing an increase in the serious injuries, the long-term, permanent ones, while at the same time the overall numbers are falling.

We see that this is a result of a number of things. One is that the ministry and the WSIB have focused all their attention on lost-time injury rates and have set goals that those rates need to go down. They have used the programs—we heard from the last speaker that they want more of the programs that provide financial incentives to employers to play the system, to engage in these programs. We have seen over the last 10 or 15 years that the amounts are—well, over 15 years, it's close to $3 billion that has been paid out to employers through the WSIB incentive programs to achieve these goals of lower lost-time injury rates. But as I've already said, at the same time we're seeing an increase in long-term, permanent injuries, and those are really the major costs in the system. That's what really drives the costs of the system. So we are seeing short-term results, seemingly, on paper at least, but we think that this ends up in long-term costs, and now we're really seeing those costs mount up with those numbers increasing of people with a permanent impairment.

We know that the Dean report, when they looked at the experience rating program, the incentive program, said, "Well, we're not going to really comment. We think there are some problems here, but we're going to leave that up to someone else," and we think that this is causing a real problem with health and safety in the workplace, meaning that some employers now spend more time playing the system in order to get a financial rebate or prevent themselves from getting a financial surcharge, rather than focusing on good occupational health and safety practices.

We have a real concern as well around occupational disease. This is the area in terms of health and safety where we see the largest expansion of claims. As more and more research gets done, we see that there may be increasing evidence of the connection of workplace exposures to cancers in years following and that we need to address this in a very proactive way. We have recommended, in terms of cancer, that all those cancer treatment centres start taking work histories, start assessing when we start getting clusters of workers with the same cancers in the same workplaces and take action as quickly as possible. That, as well, has fallen on deaf ears.

We think the research clearly supports that what is most effective in terms of better health and safety is stronger enforcement, and we really see that as more inspectors with a mandate to really call what they see and where the problems are. The enforcement is what employers really pay attention to.

We support education, it's great, but we've already seen how the education that is mandatory now is oftentimes not carried out. We see what the regulation says, that there have to be joint health and safety committees in workplaces over 20. Not even half of the workplaces have a joint health and safety committee that is functioning.

So the regulations that you're dealing with now—we're not really convinced they're going to have much, if any, impact. We think that enforcement is where we need

to go. We do also support the occupational health clinic for Ontario workers. That's the group that can provide real help in the workplace in terms of the hazards and especially around disease, and we really call for expansion of those services across the province. And in terms of experience rating, we need to change that so that experience rating is not based on lost-time injury claims, not based on claims costs, but is based on the actual safety improvements that happen in the workplace.

Thank you very much for the time to present to you today.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Mantis. You have 20 seconds a side, beginning with the PCs.

Mr. Randy Hillier: I would say that it's an important thing for the government to understand, with your statistics—I think it's intuitive to everyone, when you see that the fatal and serious injuries are increasing but all lost-time injuries are going down, that the system and the—

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Miller.

Mr. Paul Miller: Thank you, Steve. You hit the nail right on the head. The experience rating program has to go. Companies do play games, and a lot of injuries don't get reported. You're right on the money with that one, and that's one of the major things causing the unfunded liability in WSIB.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Mr. Mantis, I want to thank you for your presentation, on behalf of the committee.

Just one quick point: I understand that you have worked with the Minister of Labour on issues related to the injured worker community, and your insight and suggestions in the past and today have been very helpful, so thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti, and thanks to you, Mr. Mantis, for coming before the social policy committee here in Parliament. Thank you very much, and goodbye.

Mr. Steve Mantis: My pleasure. Goodbye.

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ELEMENTARY TEACHERS' FEDERATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter: Ms. Young of the Elementary Teachers' Federation of Ontario. Welcome. You've seen the protocol here a few times now. I invite you to please begin.

Ms. Valence Young: Thank you. As a teacher, I call your attention to an error on the first page. It's actually 2011 that we're speaking to.

Thank you for including us today. I would like to give remarks based on the content of the document that you see before you. The Elementary Teachers' Federation of Ontario includes some 76,000 educators.

I very much appreciated the remarks of Steve Mantis about the incidence of accident, injury, illness and disease, because as the Elementary Teachers' Federation of Ontario, we know that our workers are exposed to those risks too. In fact, in the Ministry of Labour document, the industry sector report, elementary and secondary educators have as much a risk of lost-time injury as health care workers, which puts them at more than double the rate for mining in Ontario.

In terms of the strengths and weaknesses of Bill 160, we chose five points, and I would like to run through those five points with highlights that may not be in the text.

First of all, in terms of the chief prevention officer and prevention council, we recommend that we have equity on that council of both labour and management, and that there be provisions for equal representation on that council from both labour and employers, and if there are additional members appointed to that council, that they certainly have health and safety expertise.

In terms of directors and inspectors, the new language in Bill 160 is troubling in terms of policies—the power over policies by directors. It appears that the director may establish written policies respecting the interpretation, administration and enforcement of the act, and we believe that is a grey area that can be twisted according to political interest.

We also suggest a concern over the mention that Ministry of Labour inspectors "shall" follow the policies established by the director. We feel quite strongly that that takes away the inspectors' power to enforce and the duty to uphold the Occupational Health and Safety Act.

We're also concerned about testimony. There's a statement in the Bill 160 provisions which uses the word "not": "An inspector is not a competent or compellable witness before the board...." We find that unproductive and, in fact, unacceptable. We support the Ministry of Labour inspectors in their work across Ontario, and in fact we strongly believe that there are not enough inspectors in Ontario doing the job that needs to be done in terms of enforcement in every workplace. So we have recommendations regarding the language of those policies.

The third point that we have is the labour-governed occupational health clinic and labour-governed training centre. We're referring, of course, to the Occupational Health Clinics for Ontario Workers and the Workers Health and Safety Centre. We implore you to consider the long-standing value, the proven record of both of those organizations—the Occupational Health Clinics for Ontario Workers in terms of preventing occupational disease and injury, researching among and with workers, and finding constructive, clear ways of communicating risk to the larger community and supporting workers and having safer and healthier workplaces. In terms of the Workers Health and Safety Centre, the standard of training that is provided by the Workers Health and Safety Centre is unmatched in Ontario, and we look forward to their continued support in every workplace. We're

recommending that Bill 160 include specific provisions to designate and fund both the Occupational Health Clinics for Ontario Workers and the Workers Health and Safety Centre.

In terms of the fourth subject, joint health and safety committees, this is a tremendous struggle for us. We find we're often in battle with our school boards that have challenges understanding that this joint health and safety committee is actually a powerful medium for the internal responsibility system, where neither management nor worker hold supreme power. Those battles are time-consuming and get in the way of dealing with serious concerns about workplace health in our schools that affect not only the professional well-being of the educators, but the learning environment of our students.

There is mention in the provisions of Bill 160 of providing the powers of co-chairs so that a co-chair can make an independent recommendation to the school board. We find that a powerful addition and ask for a clear, succinct, crisp statement regarding that, so there is no fuss and bother when a co-chair needs to make an independent recommendation on the worker side to the school board about a necessary consideration to improve the well-being of everybody in the building.

Our fifth concern is training. We find there is very little that we can uphold as exemplary training among school boards in the province of Ontario regarding the health and safety of the people in the building. This is currently exemplified in the lack of adequate workplace violence prevention training and workplace harassment training. There is currently no direct and robust effort to address the concerns, the needs or the requirements of the Occupational Health and Safety Act in terms of domestic violence spilling over into the workplace.

We need mandated training for everybody in the school board; everybody in the organization, from the director to the worker. That must be in place, because right now, what's happening is there are training programs that aren't training programs at all: for example, PowerPoints that are done on independent time or WHMIS training that's done with computer programs that cannot show you your errors clearly. You need people to educate, people who have a passion for health and safety. You need clearly mandated content delivered by qualified people to train others in their rights and responsibilities in the workplace, whether they are the director of a board of education, the custodian, the secretary or the educational assistant.

Those pretty much sum up the concerns of the Elementary Teachers' Federation of Ontario. It's my privilege to be with you here today, and I'm looking forward to hearing any comments or questions that you may have.

The Chair (Mr. Shafiq Qaadri): Thank you. There's about 45 seconds per side. Mr. Miller?

Mr. Paul Miller: Thank you; a very good presentation. One of the problems I see in Bill 160 is that they don't deal with section 50, which is enforcement. It's never been a good section, in this bill or in the previous bill.

My wife's a teacher too, retired. Do you feel that sometimes there's intimidation in the workplace—in the school boards, in the schools—about not reporting incidents of safety? Have you seen any of that in your years of experience?

Ms. Valence Young: It's often a concern that comes across my desk down the street at the Elementary Teachers' Federation. We're speaking about concern about reprisal, and also a concern about employment—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Ms. Young, thank you for coming out today. We've been taking notes, and you brought up some very excellent points. My time is very limited. I wanted to ask you a few questions, but I don't want to get cut off by the Chair. But we do have the presentation, and thank you for that.

Ms. Valence Young: Thank you very much, and thank you all. I appreciate being here.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Mr. Hillier?

Interjection.

The Chair (Mr. Shafiq Qaadri): Ms. Young, we've got one more party before you. We would never want you to neglect the PC caucus.

Ms. Valence Young: Oh, I'm delighted. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Hillier?

Mr. Randy Hillier: First off, I have to say I was quite amazed that elementary school teachers have twice as many lost-time injuries as mining. I will say this: Do you think anything in this bill or in your recommendations will make elementary schools safer? On the same par as mining, for example?

I'd also like you to expand a little bit with regard to inspectors not being more in education for health and safety. Would more inspectors in the school make it safer for our elementary school teachers in reducing lost-time injuries?

Ms. Valence Young: Yes. And mandatory training for everyone in terms of their rights and responsibilities under the act would be very beneficial, sir.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier, and thanks to you, Ms. Young, for your deputation on behalf of the Elementary Teachers' Federation of Ontario.

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EMPLOYERS' ADVOCACY COUNCIL

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Mr. Galasso and Ms. Daginis of the Employers' Advocacy Council. Welcome, and please begin.

Mr. Joe Galasso: Good afternoon. My name is Joe Galasso. I'm corporate director of health, safety and environment for Samuel, Son & Co., Limited, and I am a member of the Employers' Advocacy Council policy and legislative committee. With me today is Maria Daginis, director of government relations and membership for the Employers' Advocacy Council, who will be presenting our comments on Bill 160.

Ms. Maria Daginis: On behalf of the Employers' Advocacy Council and its 400-plus members, we wish to thank the Standing Committee on Social Policy for the opportunity to present today and provide feedback on Bill 160. The EAC would also like to thank Tony Dean and the expert advisory panel, and Minister Sousa for their commitment and dedication to improving Ontario's occupational health and safety system, and for their desire to create a "best in class" system that all employers and workers can be proud of.

The EAC is a member-based, non-profit employer group and an initiative of Canadian Manufacturers and Exporters. The EAC takes great pride in being the leading source of information, training and advocacy on workplace safety insurance. For 26 years, through our advocacy, workshops and safety group program, we've worked with employers to reduce worker compensation costs and the number of claims, and help to prevent workplace injuries.

The EAC is a founding member of the safety group program. This year, the EAC has over 140 companies participating in the safety group program. We have three distinct chapters: the Canadian Vehicle Manufacturers' Association, Magna and a multi-sector group. In 2009, our safety groups received a combined rebate of $1.6 million. In addition, EAC's training seminars have now expanded to include seminars in both insurance and compensation, and health and safety.

With the average cost of a lost-time injury in Ontario now well over $100,000 in direct and indirect costs, the EAC is very cognizant of the challenges facing the current occupational health and safety system. It recognizes the importance of the legislative amendments required so that all workplace parties can benefit through greater alignment and coordination of health and safety association activities, better access to resources and improved opportunities for stakeholders to become engaged.

In reviewing Bill 160, EAC recommends that the following legislative amendments be adopted with priority:

(1) Transfer of the prevention responsibility from the Workplace Safety and Insurance Board to the Ministry of Labour: This is a critical component of the health and safety alignment process. There is a definite need to minimize duplication between the prevention and enforcement pillars of the occupational health and safety system and to create uniformity and consistency. With this provision, the Minister of Labour would have express powers to promote public awareness of occupational health and safety, educate employers and provide grants to support occupational health and safety activities. EAC supports this provision.

(2) Consistency of application and instruction to ministry inspectors: The EAC supports the provision under subsection (3) which allows directors to establish written policies respecting the interpretation, administration and consistent application and enforcement of this act, and that the inspectors follow the established policies set out by the director. Consistency of application is a very important step in guiding the implementation process of prevention activities.

(3) The creation of a chief prevention officer: The EAC has made a separate submission on this new role. It included the importance of communicating to small employers by focusing on their specific needs and financial resources. In addition, among the recommendations in the report of the minister's expert advisory panel in December 2010, was one recommending that the new prevention organization develop a multi-year social awareness strategy. We continue to support this recommendation and its intention to significantly reduce public tolerance of workplace injuries, illnesses and fatalities, and shift attitudes, beliefs and behaviours around occupational health and safety.

The EAC supports the creation of the CPO and a new prevention council.

(4) The establishment of standards for training programs: Establishing training program standards in workplace health and safety education and its promotion is an important initiative in achieving excellence in workplace safety. The EAC supports the proposed change to transfer the responsibility of the delivery of certification of joint health and safety committee members from WSIB to the MOL. We support the provision for training providers to disclose information to the minister on a worker's successful completion of an approved training program.

Furthermore, the EAC supports the creation and development of coordinated and aligned training objectives, so that all parties understand their legislative obligations.

Mr. Joe Galasso: Conclusions and recommendations: EAC remains committed to working with the Ministry of Labour and all health and safety prevention partners. EAC will continue to work diligently on behalf of Ontario employers to ensure that their concerns are addressed and to ensure an adequate and equitable health and safety system in Ontario.

In summary, EAC supports the adoption of the Bill 160 legislative amendments regarding: the transfer of the prevention responsibility from the WSIB to the MOL; consistency of application and instruction to ministry inspectors; the creation of a chief prevention officer; and the establishment of standards for training programs.

In conclusion, the EAC welcomes the opportunity to work with a new prevention organization, a new chief prevention officer and a prevention council whose combined efforts will engage employers in more meaningful, proactive and consistent applications of the Occupational Health and Safety Act.

The EAC thanks you for your consideration.

The Chair (Mr. Shafiq Qaadri): Thank you. A minute a side: Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Ms. Daginis and Mr. Galasso, for your presentation. Is it fair to say that, in general, you support the bill that has been put forward today?

Ms. Maria Daginis: Yes.

Mr. Lorenzo Berardinetti: Thank you, and thank you for coming out, on behalf of the government members.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Mr. Hillier?

Mr. Randy Hillier: Thank you very much for coming out. There's no mention in your presentation about the removal of the existing section 7 committees throughout the province. I'm wondering if that's not a concern to you at all.

Mr. Joe Galasso: I can't talk specifically to the whole EAC's position on that. I think that the EAC and its membership have varying opinions on various parts of this legislation. We're talking specifically to these ones today. I think everyone has a different opinion on different sections of the legislation. So we would support some and some would not be supported.

Mr. Randy Hillier: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier. To Mr. Miller.

Mr. Paul Miller: No questions, thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller, and thanks to you, Ms. Daginis and Mr. Galasso, for your deputation on behalf of the Employers' Advocacy Council.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 5555

The Chair (Mr. Shafiq Qaadri): I invite the next deputation, deposition, delegation—I believe all qualify, but I do thank you for the literary input, Mr. Hillier.

I now invite Mr. Postar of CUPE, Local 5555 and colleague. Gentlemen, please do introduce yourselves. I believe that's Mr. Morin; welcome, again.

Please begin.

Mr. Don Postar: Yes, thank you. My name is Don Postar. I work out of CUPE, Local 5555, which is, of course, the Kawartha Pine Ridge District School Board. I am a full-time caretaker there. I'm also the chairperson for CUPE Ontario's health and safety committee. I want to make sure that I say that Fred Hahn, our president, will be submitting to you later in the week.

We do support the position of the OFL and the issues raised and provided to the ministry of what follows, but because my timelines are short, I want to cut to page 2 already. I want to talk about vulnerable workers who are victims of reprisals for their attempts to protect their health and safety. They're not protected by this bill.

Ontario workers have the right to participate, know and refuse, and these rights must be done powerfully and swiftly to be enforced.

I have provided the committee with some literature. The first one to deal with is an article from the Toronto Star concerning what we believe is another form of intimidation. The private investigators followed a health and safety representative for as many as 13 hours a day.

My second paper is: "Toronto Hydro Brass Caught in Cover-Up...." It says in the second paragraph, last line, "The employer's letter stated that the allegations were 'completely untrue' and that 'there is no such surveillance investigation under way.'" It was later deemed that there was an investigation by three different private investigators.

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To my second one, I go to the last lines, where the worker said, "To potentially follow me home and get my family on tape, I have a real concern with that.

"You want to pound on me here at work," that's okay. "But to take this into my personal life," that should be forbidden.

Attached, also, we have the behaviour-based safety from Suncor. It's from 2007. It's about programs to put in a place so that we don't report injuries and we don't report hazards. Because, as you can see in the first bullet, it says, "without exception, regardless of reason" that I do not miss work, my name will get put in to receive a reward of a vehicle valued at $30,000 to $40,000, but I have to not miss a day of work. So if I'm injured, I'd better not report. That is bad.

Actually, I could give you a personal one on this: My daughter worked in a place, and it didn't have a union. They were given a $500 bonus for the 16 workers who worked on the tow motors, delivering. If they didn't have an injury or an illness that month—or, it was six months; sorry—they got a $500 bonus. A 22-year-old man stepped off his tow motor and twisted and broke his ankle, and subsequently the $500 went out the door, with 11 of his co-workers showing up at his door to give him the reprisal instead of the employer—terrible.

Then I want to talk about powers to the senior Ministry of Labour directors. I quickly want to go into school boards. We have a real concern about giving directors this power, the reason being, there are so many directors in Ontario from the Ministry of Labour that each one would have a different take on it. To give you an example, my school board goes from Trenton to Oshawa, up to Apsley—108 sites and 108 different ways to do business. The principals all do their own business. But what is alarming is, I deal with three Ministry of Labour offices, and I'll tell you right now, all three have different ways of doing business.

We have multi-site and single-site through Ontario. I haven't mentioned yet, but I'm the health and safety rep for the Ontario School board coordinating committee, so I know pretty well what's going on through the Ontario school boards' works. I can tell you that if we do lose the multi-site to a single site—and it looks like the Ministry of Labour is pushing for that—it virtually skirts the employers' obligations under sections 25 and 26 because now the site is in charge of inspecting and reporting and keeping our workers safe in the workplace. This is not right and it should be looked at.

I've been working in the school board sector for 28 years, and what I see is, the education sector does not have its own regulations. We are called by some of the inspectors "an extended workplace," which means that we don't fall under any regulations. So when they come in to enforce, there's nothing to enforce. There's nothing there for them to enforce in the school board sector. One of the previous speakers talked about the injuries in the

teachers. Well, the teachers, I can tell you right now—our caretakers, EAs, secretaries and maintenance persons are higher.

Accountability: I can talk again about—I'm on page 3. Imagine being in a school board as a casual worker or a temporary worker. I get into one of these schools in the rural area and I want to report an injury or report a hazard, and the administration wants to keep it in the school. The intimidation is there, the reprisal is there, and my workers are told, "You're lucky to have a job." The EAs have been told, over the violence in the workplace, "That's just part of your job." Everyone here knows it's not part of the job to go home injured at night, so I have a real hard time dealing with this.

I'd like to talk quickly about the internal responsibility system and what I see the Tony Dean report came out with. I have a hard time believing that the expert panel would try to get the individual responsibility system through here, because the internal responsibility system, very much so, is part of the culture in health and safety.

On my one from the Canadian Vehicle Manufacturers' Association, page 2, third-last paragraph, it says, "With respect to this review, we believe the Ministry of Labour needs to effectively communicate and endorse the understanding of an internal responsibility system. The ministry should be fostering an individual responsibility approach to IRS. Under the approach, the joint health and safety is responsible for monitoring the effectiveness of the IRS system should it not undertake the health and safety responsibility for the workplace parties." The internal responsibility was entrenched when Ham and his commission did his study way back.

The Ontario government commissioned an independent review of the Ministry of Labour's health and safety division in the 1980s. Laskin's study looked at the IRS and found—and I've quoted it in my submission, which I'm just going to pass over because I've allowed it for your reading.

Where I want to go now is to page 4 of it. I've included a copy about criminal charges up in Sault Ste. Marie. What we had there up in Sault Ste. Marie was James Vecchio, who died. The article of March 22 cites the reasons the criminal charges were dropped, and then on April 11, which has just passed, the crown released a statement that they could not establish that the braking system on the crane failed. The question is, if this is why the criminal charges were dropped, then who is actually responsible for that worker who was killed? What caused the accident, and why wasn't the city actually charged? Because it was their worker who was killed. Instead, a worker who worked the crane was subsequently blamed for it, so it was called "blame the worker." In the labour movement, we have a hard time blaming a worker for an accident that should be under the obligations of the employer.

The Chair (Mr. Shafiq Qaadri): Mr. Postar, I'll need to intervene there.

Once again, on behalf of the committee, thank you for your deputation on behalf of CUPE Local 5555, and to your repeat colleague, Mr. Morin there.

ONTARIO BAR ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Mr. Geiger, Ms. Tanzola and Mr. Akazaki—yes; konnichiwa—of the Ontario Bar Association. I welcome you. I'd just have you introduce yourselves, and please begin now.

Mr. Lee Akazaki: Good afternoon. My name is Lee Akazaki, and I'm the president of the Ontario Bar Association. We're circulating materials which are in draft form. A final version will be prepared in response to any concerns or questions that this committee may have, which we may prepare.

To my immediate left is Mark Geiger of Blaney McMurtry and to his left is Carissa Tanzola of Sherrard Kuzz. They are members of the employment and labour section of the OBA.

The OBA is the largest voluntary group of lawyers in Ontario, approximately 18,000 in total. We represent judges, lawyers, law professors and students and are the voice of the legal profession. We have no fewer than 36 practice sections, which are actively involved in every part of Ontario society. Our labour employment law section has 900 members, including leading practitioners in the field.

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Our members and those who appear before you today represent lawyers acting for employers, unions and employees in every sector. It is our members who are in the trenches working with this legislation, and our interest in appearing before you today is to ensure that this legislation works.

So without further ado, I am going to call upon my colleague Mr. Geiger.

Mr. Mark Geiger: Thank you very much. As Lee has said to you, we represent all of the employment and labour lawyers who are members of the OBA in the province of Ontario. Our job is to try to bring up for you any changes that we think would make the act work better, and that's what we're hoping to do here today.

We are really focusing on three comments and some suggested amendments to the act. I'm going to deal with the first two and my friend to my left is going to deal with the third one.

The first one deals with the training. We are very much in favour of training of workers, especially in heavy risk industries, such as construction. However, we want to make sure that we don't undo some of the very good work that's been done in training in the people of Ontario with many employers and many workers and supervisors over the last several years. We want to make sure that when standards are introduced, they are prospective. In other words, we're not going to be required to retrain everyone who has already been appropriately trained in the people of Ontario. That would be incredibly expensive for everyone concerned.

In the construction industry, just by way of example, if a major construction company is dealing with employees, those employees don't appear on the work site unless

they have the appropriate training. There's at least five or 10 different kinds of training that are required. Fall arrest is perhaps one of the most important, and confined spaces, shoring etc. So there have been good training programs in place in Ontario that have been provided to employees both by employers and by private companies. We just want to make sure that that isn't nullified.

The recommendation that we make on page 4 is that we suggest the amendment, "Nothing in this act renders inadequate training received before the effective date of any standards established under subsection (1), and non-compliance with any standards established under subsection (1) is not, in and of itself, evidence of inadequacy of training received prior to the effective date of such standards." I think the amendment sort of speaks for itself.

The second area that we want to speak to you about deals with the chief prevention officer. The Dean report had very strong recommendations that someone would be appointed who would almost be a chief executive officer with respect to safety in the province of Ontario, but the provision in the proposed legislation doesn't clarify—at least as far as we can see—how this person's duties and responsibilities relate to the duties and responsibilities of a director. It seems to us that this will perhaps, unless there is some greater clarity, in fact deal with increasing the confusion and the lack of clarity which the Dean report points out in quite a bit of detail instead of the opposite.

We're suggesting to you that it would be wise, in our respectful submission, to have something in this legislation which clarifies exactly—I'll put it this way—where in the pecking order this officer, this new person, is. The Dean report suggests that they would be at the level of a deputy minister. We're not suggesting for you where you want to put this person, but we are suggesting that you make clear that the policies and procedures that are developed by this individual and by the committee that he is in charge of are coordinated with the procedures and the advice that's given by the directors.

I'll turn it over to you.

Ms. Carissa Tanzola: Thank you. I'll be speaking briefly about section 50 and the amendments made to section 50 which allow an inspector to refer a reprisal complaint to the Ontario Labour Relations Board. We refer to that—at least what we do—as just "the board," so I'll do that here as well.

We're making a few suggestions here about how we think we can improve the language of the legislation to achieve the balance that I think everyone is looking for. What I'm going to be speaking about is the overlapping jurisdiction and concurrent-proceedings problem that we see here, as well as the procedural difficulties and access-to-justice issues. I'm going to be breaking that up into the board, as it stands now, the purpose and powers of that board, inspectors and compellability, as well as carriage issues.

With regard to the overlapping jurisdiction issue, right now the proposed language says that an inspector can refer a reprisal matter to the board if the worker has not had the matter dealt with by a final and binding settlement by arbitration or in a complaint filed with the board under subsection (2). The effect of this provision is that concurrent proceedings may be commenced, and I'll give you an example of how that can be done. In a unionized setting, arbitrators have jurisdiction to deal with these types of issues. If an arbitrator has not yet made a final and binding decision, it's possible that one is coming down in a few weeks or a few months. By the language that's currently drafted here, we could potentially have overlapping jurisdiction and concurrent proceedings, which we suggest might not be the intent of the bill itself.

As such, we've made a few recommendations, which are located on pages 6 and over to 7 of the draft document that you have in front of you. Essentially, we suggest that the language be changed to broaden the scope of what might be already commenced. We suggest, "No proceedings in respect to the matter have been commenced by or on behalf of the worker, including but not limited to, a grievance or arbitration pursuant to the grievance or arbitration provisions of a collective agreement, an application to the Ontario Labour Relations Board pursuant to section 50, a proceeding under the Employment Standards Act"—because we might be dealing with a termination here on the same set of facts—"or any other court proceeding"—the same suggestion there. In addition, "The matter has not been dealt with by final and binding settlement," if one has already come into play.

Just as an aside, a cumulative grouping of these amendments is attached to the last section of your submissions.

With regard to procedural difficulties of the board, the board is not an investigative body. The board is an adjudicative body, and that's its primary function: to resolve labour and employment disputes. The legislative powers that it has pursuant to the Labour Relations Act reflect this. This board is distinctly different from other bodies that we've had in the past and perhaps currently, which are more investigative. The example that came to our mind is the Ontario Human Rights Commission. It's helpful to kind of compare what these two bodies did and do.

The Ontario Human Rights Commission was an investigative body, as I mentioned. Cases were referred to it. It took a look at those cases and decided if there was a prima facie case that determined it would go forward to the board to be adjudicated. If it did do that, it would go on to the tribunal and they would hear the case.

The Ontario Labour Relations Board has no rules or procedures that are suited to the investigative role or carriage of the case. The problem here is, how does the board effectively deal with the matters that have implicit management carriage issues? I'm going to talk about the carriage issues in more detail.

As such, we suggest the following recommendation: that "The chair of the board may make rules under subsection 110(17) of the Labour Relations Act, 1995

relating to the participation of a worker in a referral made under subsection (2.1)."

Currently, there are—

The Chair (Mr. Shafiq Qaadri): Ms. Tanzola, it's not usual that a physician would dare to interrupt a lawyer, but in this case, I will need to. Your 10 minutes has expired, and I thank you on behalf of the social policy committee for your deputation on behalf of the Ontario Bar Association.

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ONTARIO COMPENSATION EMPLOYEES UNION

The Chair (Mr. Shafiq Qaadri): I invite our next presenter: President Goslin of the Ontario Compensation Employees Union, CUPE 1750, and entourage. I'll just let you get seated there. Please do introduce yourselves. Welcome, and please begin now.

Mr. Harry Goslin: Hi. I'm Harry Goslin, president of the Ontario Compensation Employees Union, which represents the Workplace Safety and Insurance Board employees. Here with me are Jim Braund, who is the vice-president, and Beth Harris, who is our chief steward.

I'll begin with the reason why we're all here today. It's really about trying to best create workplace environments where we're protecting Ontario's workers. I've given you some information about the average rates of injury. We know that two people die each week, that another five succumb to occupational disease and that another 1,600 worker injuries cause lost time from work.

Really, the bottom line is that the death of any one worker is one too many, let alone the 365 who die in Ontario every year. In fact, we had a tragic event that happened in North York just yesterday, where a young man of 26 years died at a pasta factory. It really causes you to pause for a second and take a look at what's happening with Bill 160.

Our core belief is that Bill 160 in itself just does not address the issue, which is to best protect Ontario's workers. We believe that it's a travesty to say that if you move prevention from one organization to another organization you're going to deal with the real issue.

I'd ask the committee to take a look at what gave rise to Bill 160. What gave rise to the Tony Dean expert panel on health and safety in Ontario? It was that event that happened a little over a year ago, where four immigrant workers fell to their death when they fell 13 floors. Will this legislation, in and of itself, actually help save workers' lives? Will it actually prevent more tragic events like this? I say to you that it will not.

We believe that Bill 160 should really not be proceeding. The recommendation to remove prevention from the WSIB and transfer it to the Ministry of Labour does not improve workers' safety.

Bill 160 will cause Ontario to lose momentum on the issue of the WSIB's Road to Zero strategy, which has significantly reduced injuries since it came to their mandate after 1998: a 27% decline in the lost-time injury rate; a 15% decline in the no-lost-time injury rate; and a 40% decline in young worker fatalities since 1999. There are these two initiatives called the High-Risk Firms and Last Chance initiatives, which resulted in over 14,600 fewer lost-time injuries and saved almost $1 billion. So why are we bringing this all to an end?

The WSIB has set a strategy of reducing injury rates by 35%, and at the midway point, they're well ahead of their goal.

In one piece of the Tony Dean report it talks about, on page 58, lack of coverage in the Workplace Safety and Insurance Act. I would say to you that if we're actually really serious about doing what's in the best interest of the workers of Ontario, then we will be looking at the issue of coverage. We know that only 72% of the employers in Ontario are actually covered under the Workplace Safety and Insurance Act. That means that 28% are not paying at all into the compensation system, and their injury rates are not being tracked by the premiums and the assessments and the experience rating programs that the WSIB operates. The 28% that are not covered under the act actually represent 38% of workers in Ontario who are not covered, and they are the vulnerable workers. So if we're really serious about doing something about workers' safety, I'd call upon all of you to actually do something about the Workplace Safety and Insurance Act.

It would be premature to remove any programs that are tied to WSIB funding. Right now, we know that the WSIB has the Harry Arthurs funding review taking place and that that is going to be looking at things like experience rating, and experience rating and incentive programs are tied to prevention. It's crucial that these programs are not disrupted so that the organization continues—has a key interest in prevention, because if you can prevent an injury from happening, you can reduce the unfunded liability.

I think that the government is moving far too quickly in trying to implement something like Bill 160 without looking at the whole picture, which is part of what the funding review would do. It's going to disrupt programs like Workwell evaluation. Workwell evaluators will go in and they will do health and safety audits. We know that every dollar invested in Workwell actually yields an eight-to-one savings ratio, so why is this going to be disrupted by this bill?

Another key thing is: What will happen during the interim? So this bill gets passed; is there any road map on how we will get to the end state? There isn't. I've met with the deputy minister, I've met with the Minister of Labour, and there is no clear road map of how we're going to get from here to there without stopping the Road to Zero and without actually trying to do something—it's completely vague. This is such a travesty.

The WSIB will continue to fund the safe workplace associations. That funding all comes from 72% of employers that pay premiums to the WSIB. They fund 100% of health and safety and prevention in Ontario, to the tune of over $216 million—$216 million that will come from

WSIB, move to the Ministry of Labour, more than doubling the Ministry of Labour's current budget. And yet the WSIB would have no oversight over how those funds will be used.

When you look at the prevention council, the council has a lot of responsibility but very little authority. With that council's makeup, which is being supported by employer premiums, the WSIB has no seat. Why is that? That seems awfully strange. We would suggest that they have at least two people on the council.

With a chief prevention officer, we think that the chief prevention officer's role is far too politicized; it needs to be an apolitical role. It needs to have an actual arm's length from the Minister of Labour and the Deputy Minister of Labour. You need to have a strong chief prevention officer who can make those tough apolitical decisions and not be at the whim of the political philosophy of an elected official. We think this is a critical flaw in this proposed legislation.

One of the key things, I think, that is also of primary concern to us is the bill that gives the directors of the ministry the authority to really publish policies that would have the force of law. I think that this is something that is a completely new event in legislation. It really circumvents the whole process and gives the ministry powers that they currently do not possess. Is that something that we really want to be seeing happen?

Reprisals: We think that the inspectors ought to be compellable to come to the Ontario Labour Relations Board, and we think that this provision should be expanded so that they could be compellable to come any time that they have relevant findings.

When we talk about the WSIB, which is going to be funding the new prevention system to the tune of $216 million at a time when the WSIB has an unfunded liability issue that they are trying to deal with but yet will have no control or consultation from the chief prevention officer or the prevention council on how those funds will be utilized—it hinders them in trying to be transparent with the employer stakeholder groups on how their funds are being best used.

One of the key things is, under the Workplace Safety and Insurance Act, all references to prevention in the mandate of the WSIB are being struck from the act. We'd suggest to you that this is not the best approach to take when we talk about the Workplace Safety and Insurance Act—I think it's on page 19 of the Bill 160 draft. We're suggesting that you include the whole statement that enables the WSIB to have a role in prevention. That way, when the chief prevention officer is established, that person will be able to look at what kind of a framework they want to have when it comes to prevention in Ontario and determine what kinds of functions should continue to operate, such as Workwell evaluation in the WSIB. But if WSIB has absolutely no provision to support and foster prevention in Ontario, then you hinder that chief prevention officer's ability to make that decision.

One of the other key pieces that—

The Chair (Mr. Shafiq Qaadri): I need to intervene there, Mr. Goslin. I'd like to thank you and your colleagues on behalf of the committee for your deputation on behalf of the Ontario Compensation Employees Union and CUPE.

Mr. Harry Goslin: Thank you.

1730

MS. TRACIE EDWARD PALMER

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward, who is coming to us via conference call. Ms. Palmer, are you there?

Ms. Tracie Edward Palmer: Yes, I am.

The Chair (Mr. Shafiq Qaadri): That's great. You are before the social policy committee. You have 10 minutes. Please begin.

Ms. Tracie Edward Palmer: In June, I made a presentation to the expert panel on occupational health and safety on behalf of the Lambton-Kent-Essex regional education sector health and safety coalition, which includes representatives from local school boards. Our coalition exists due to a long struggle with health and safety concerns in our sector.

Numerous issues were brought to the Ontario Labour Relations Board, such as an employer appeal of Ministry of Labour orders, a section 50 reprisal—

The Chair (Mr. Shafiq Qaadri): Can you just do something with the microphone, how close you are to it? I think it's a little fuzzy on this end.

Ms. Tracie Edward Palmer: Okay—a section 50 reprisal complaint, an unfair labour practice complaint involving health and safety issues, permission for multi-site joint health and safety committees being revoked and a conviction which resulted in a significant fine to one of our local school boards for not complying with legislation.

I have been involved in health and safety locally for over 15 years and provincially for over seven years with the Ontario Secondary School Teachers' Federation.

First, I'd like to say that I believe some revisions of the Occupational Health and Safety Act are overdue in order to clarify its intent to protect workers. The act was first developed over 30 years ago as a result of the Ham commission and relies heavily on the concept of the internal responsibility system, giving workers an equal voice with management.

One of the changes proposed in Bill 160 is an attempt to clarify how a recommendation is dealt with if the entire committee does not agree. Unfortunately, instead of moving toward the common practice many workplaces have held by allowing any member of the joint health and safety committee to make a recommendation, Bill 160 proposes putting additional barriers in place, limiting the source of recommendations to only the co-chairs and requiring them to include additional information.

If worker members of the joint health and safety committee truly had a more equal voice when consultations occur reviewing employer policies and protocols, the employer should at least be required to indicate the

reason for disagreement if the workers make a recommendation for an improvement.

One of the other changes proposed in Bill 160 is the establishment of a prevention council. Unfortunately, the current proposal does not mandate that the council be comprised of an equal number of worker and management representatives, as was originally introduced by the Peterson Liberal government in Bill 208. To ensure that the act remains true to its original intent of workers having an equal voice dealing with health and safety, this should be amended in the final version of Bill 160 legislation.

I was glad to see in Bill 160 that the Ministry of Labour inspectors will be given the ability to address section 50 reprisal complaints. In one of our local situations, the Ministry of Labour inspector was unable to even include his opinion about the reprisal he witnessed in his field report. Section 50 of the Occupational Health and Safety Act needs to be strengthened even further to allow Ministry of Labour inspectors to act as witnesses in a section 50 complaint, if applicable, to protect the worker during the process and to make the section 50 complaint process faster and more accessible.

Because we have so many staff members who are afraid of raising concerns due to the subtle ways administration can issue a reprisal in our system, we rarely are successful in encouraging our members to stand up for their rights, and even anonymous complaints must be thoroughly investigated. If I had more time, I would present more information on the lack of enforcement we have experienced in our sector and the need for random inspections by Ministry of Labour inspectors.

Unfortunately, Bill 160 does not indicate any increase in enforcement of the act, but indicates that the chief prevention officer could actually develop new policies and require Ministry of Labour inspectors to enforce them without ensuring that these new policies are adequately vetted to ensure their reasonableness.

We need to remember that absolute power corrupts, and the Ministry of Labour is there to enforce the laws, not to create them. That's what the Legislature is for. Policies established under the legislation should be vetted through the prevention council, which, as I stated earlier, should have equal representation from worker groups.

Also, if the Ministry of Labour makes orders at one work site, it is only reasonable that the orders must be enforceable at all of the work sites belonging to the same employer where that order is relevant so the employer is forced to implement the correction to protect all employees.

Currently, the school boards believe they are issued orders that are only relevant at the one school and do not apply throughout the whole school board. Their due diligence should be explicitly clarified in the legislation with an amendment to Bill 160.

The expert panel on Bill 160 recognizes the need for more training. Unfortunately, you know from experience that if the type and quantity of training are not prescribed, employers will do the minimum.

Competition between training providers leads to employers looking for training at the lowest possible cost. Interactive, face-to-face or group instruction rather than online computer-based training should be required, allowing participants to have their questions answered.

All of the school boards use inadequate PowerPoint printouts or computer-based training in their annual WHMIS training, and the most common outcome for staff is finding a shortcut to save time and avoid running the required content.

The training must involve examples from the participants' workplaces, brainstorming solutions to scenarios presented on worksheets etc. to make it relevant.

Best practices show employers using worker members of the committee to do the training after they receive instructor training through the Workers Health and Safety Centre. Even with the train-the-trainer model, employees can save money and have instructors that are familiar with their policies and protocols.

Standards need to be set for all types of training; for example, basic orientation training that includes awareness of worker rights and information on the significant hazards in the workplace—more than just WHMIS. And in light of Bill 168, which incorporated violence into the Occupational Health and Safety Act, we need training related to violence in the workplace and proactive training that includes de-escalation techniques.

All workers need training on the work refusal process, and the workplace parties need to be reminded of the protection offered by section 50 of the act. This basic training for all workers should be legislated.

The Ministry of Labour must be empowered to enforce concerns under the direction of the WSIB, not just training but also the reporting and falsifying of accident reports. We have encountered each of these issues, and neither WSIB nor the MOL have an enforcement mechanism to deal with them.

Although the WSIB guidelines recommend employers consult the joint health and safety committees about determining hazard-specific modules for certification training, an employer can opt for the minimum.

One of our school boards decided that there was only one significant hazard in their schools—slips, trips and falls—by simply looking at the frequency of these injuries. They ignored training on indoor air quality, violence, ergonomics and a host of other hazards frequently encountered in our schools.

There may not be a "one size fits all" solution, but the health and safety associations and the Workers Health and Safety Centre have determined sector-specific streams of modules for part 2 certification, and this could be a baseline or minimum standard for the sector.

I don't understand the creation of a body to oversee health and safety training providers, since I have had some training from management-based IAPA and ESAO, which is lacking, particularly in areas such as providing information on the right to refuse and how to be an effective advocate for health and safety. I am concerned that this overseeing body will have too much control over

the Workers Health and Safety Centre, which has met the WSIB standard and provided superior training for years. The autonomy of the Workers Health and Safety Centre must be preserved so that their training is not dragged down to the minimum standard of the other organizations.

The Workers Health and Safety Centre must be able to ensure they are not forced to advocate for the principles of behaviour-based safety as other organizations do. Health and safety training should demystify the myth of the careless worker and focus on eliminating the hazards and not blaming the worker. Behaviour-based safety programs, such as rewarding accident-free periods, only serve to limit accident reporting and should be eliminated totally from health and safety programs and training.

The worker members of the joint health and safety committee should be given the choice of training providers to counteract the effects of competition, which drives down quality in the private sector training organizations.

Even the consultations that are used by the employer for indoor air quality reports and ergonomic assessments are questionable, since they provide the employer with a draft report and accept feedback on it before producing the final version, which is shared with the workers. If the consulting firm wants to be hired again, they are pressured to provide a report which reduces the employer's liability and obligations.

The private sector organizations have a conflict of interest in their involvement if they plan to be benefiting financially from the decisions. This is why it is important to preserve the autonomy of OHCOW, the Occupational Health Clinics for Ontario Workers, which is currently funded by the WSIB. Actually, I would go one step further and believe that it should be required in legislation—

The Chair (Mr. Shafiq Qaadri): Ms. Palmer, I'll need to intervene there, and I'd like to thank you.

Ms. Tracie Edward Palmer:—that public institutions need the free, unbiased services of OHCOW and not use taxpayers' money for consultants' reports.

The Chair (Mr. Shafiq Qaadri): Ms. Palmer.

Ms. Tracie Edward Palmer: Sorry?

The Chair (Mr. Shafiq Qaadri): I need to interrupt you there—this is Dr. Qaadri, chair of social policy—and thank you for your deputation in the allotted time of 10 minutes. Thank you on behalf of the committee.

Ms. Tracie Edward Palmer: Thank you.

The Chair (Mr. Shafiq Qaadri): I'd also just like to thank committee members for a remarkably collegial meeting, particularly given what took place earlier today in question period, which provoked 15 minutes of disciplinary action from the Speaker.

I remind us that the committee is adjourned for further public hearings until Monday, April 18, at 2 p.m.

The committee adjourned at 1741.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 18 April 2011

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 18 avril 2011

The committee met at 1402 in committee room 1.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 2011

LOI DE 2011 MODIFIANT DES LOIS EN CE QUI CONCERNE LA SANTÉ ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters / Projet de loi 160, Loi modifiant la Loi sur la santé et la sécurité au travail et la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail en ce qui concerne la santé et la sécurité au travail et d'autres questions.

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen and colleagues, welcome to further committee hearings on Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters.

We have a number of presenters coming forward today. For all of those concerned, each presenter—group or individual—will have exactly 10 minutes in which to make their remarks. That is digitally timed and will be enforced with military precision. I say that so we might be able to head off any timing controversies which seem to arise for press purposes, shall we put it that way.

D'ORAZIO INFRASTRUCTURE GROUP

The Chair (Mr. Shafiq Qaadri): To begin with, I'd like to invite Mr. Andrew Stone, health and safety coordinator of the D'Orazio Infrastructure Group. Please have a seat, Mr. Stone. You've seen the protocol. Any time remaining, as I said earlier, will be divided amongst the parties evenly for questions. Your time officially and irrevocably begins now.

Mr. Andrew Stone: Thank you. I'll start off with the topic "New Prevention Council and CPO: The Key to Success Lies Within Itself." I would like to remind and make aware that we tend to forget that the MOL runs the WSIB and that we tend to separate the two differently as separate entities when, in fact, they're not. The MOL has sole control of the WSIB, hence the handout here, the first sheet, the structure format. With that being said, it brings the question: What makes the MOL running prevention any better than the WSIB when the MOL already had control of the WSIB in the first place?

If we look more to the subject, more questions come to mind. If the MOL has no interest in prevention, then what makes the difference now? Since the MOL had a prevention branch at the WSIB, why the new costs and reorganization of something that already existed, never mind the simple fact that when you restructure, the time to implement—it has been said by MOL officials to be four to five years. How does this improve the well-being of lives when time is of the essence?

Our next section is "Duties of the Minister and Chief Prevention Officer in Council." This area, again, I have trouble understanding, similar to my last area of conversation. The proposed new amendment calls for the creation of an annual report, announcement, prevention strategies and advice-sharing between all three parties. Again, this is already done by the MOL and has been published on their website for years now. If you look in the next handout, the next page, you will see that, right from their website. It's kind of redundant, to a degree. In fact, the reports go back—I have recorded here—to 2006, and the current one, 2010-11.

My next topic will be mandatory training. I am pleased to finally see that training of the health and safety representative will be mandatory, and that the construction sector's section 21 committee had a large part in making this happen. I truly believe this is a good start to ensuring that equality between labour and management is maintained. However, I do have to bring up some concerns in the area of training in this amendment.

I know I can't speak for other companies, but I've spoken to colleagues in other companies, and the same concern has come up in several conversations. I understand quite well the nature of our industry's transient workforce. Employees forget or do not have records of training on their person, or are not given copies to keep when their company has paid for their training and their time spent. However, good due diligence practices already require the employer to maintain records of training, to be made available at the request of the inspector. I don't see the point of a data bank. The current government has shown that it does not have the ability to create or manage an effective system or, furthermore, control the cost of such a system.

Another concern is the fairness of access to training records. A good company invests in its employees and absorbs all or a large portion of training costs—more so if companies have created their own in-house training or safety departments. However, some employers do not invest. This includes all sizes of companies.

From my understanding, this new system would require workers to give consent or to make available an abstract of their training which the next employer could have. It would be a slap in the face to companies that are proactive—and this includes companies that are trying to improve their own internal responsibility system—to know that they have provided free training for others, and potentially their competitors.

This training data bank is not going to improve health and safety. This can only be done if the company is committed to the well-being of its employees. A training record is just a piece of paper. A company must ensure that the worker understands his or her training at all times. If the mentality of the piece of paper is considered due diligence, we do have a problem.

However, the key to success lies within itself. I've made some recommendations:

—Don't change the current structure; the MOL has a structure in place.

—Use the four safe work associations' board of directors as a base council, the chair from each to meet with the minister or MOL director who is solely responsible for their sector or department.

—Share the report information. This already exists and is similar to the nature of what is being proposed in the amendment. This forum can also recommend, design, train and communicate any and all recommendations that Bill 160 presents effectively at no extra cost.

—A new section 21 committee for small business and new workers is not practical as a committee, for the fact that it's a universal sector issue, and due to inherent differences in each sector, it would be impossible to reasonably create a universal solution. However, if the MOL were to mandate current section 21 committees/labour management committees to create a subcommittee or a requirement to address this subject, it would better be able to develop solutions based on a sector-specific level, and it would be easier to communicate information and participate, as some committees are already in place throughout Ontario, providing great stakeholder input.

The MOL can better utilize its safe work associations and their section 21 labour management committees. Each association has access to some of the best health and safety personnel in the world. Added to this already experienced system would be the use of a section 21 or labour management network. This network of committees holds access to organized labour, non-organized labour, management from both union- and non-union-affiliated employers from big to small, and also health and safety personnel from the private sector.

That being said, the structure I have presented already exists. It's fully functional, meets or exceeds the proposed amendment, and it's free. In fact, companies are paying to be there. Companies are paying the wages for their representatives to attend and participate.

I think I've clearly demonstrated that the Ministry of Labour has never had the desire nor the commitment to understand prevention. However, if the government would allow the private sector to better share the burden of prevention, as that is where prevention starts and finishes, it would, as I have demonstrated, result in front-line success where it's needed, be fiscally more efficient, be able to quickly relay information and truly be more transparent in nature.

1410

A quick summary of Bill 160:

—Lacks commitment: When words like "may" are put in the duties of people, it shows no commitment. If commitment is serious, the word that should be used is "shall." Too many "mays" are in the proposed amendment.

—Redundant council: system already in place, already being done.

—Chief prevention officer not needed: No one person can make success. Better use of the internal structure of the MOL would be more effective and still meet Tony Dean's recommendations of MOL control.

—Better representation and participation with stakeholders from the industry will prove greater success. Again, that's where prevention starts and finishes.

—Safe work associations: Section 21 labour/management committees meet and exceed the proposed duties of the prevention council; again, a tool for success already in place, ready to go.

Training costs will escalate for companies. Small business will suffer and only promote under-the-radar activity. The MOL needs to address and commit to small businesses as a priority. Change is only as strong as its weakest link.

The minister has shown no action plan to make this happen, and it's made clear by his comments in the Legislative Assembly. Asking companies to approve Bill 160 without a plan is disrespectful. Making comments such as, "Our stakeholders will be consulted as we build on this framework and work to achieve the best implementation of the panel's recommendations," on March 8, 2011, in the Legislative Assembly clearly proves there is no direction.

The word "consulting" is vague and can sound good intentioned. Clearly, when stakeholders hear the word "consult" from the government, it merely is a formality to say, "We spoke to them and addressed them, but we didn't want to hear from them."

The minister and the MOL should think about using the IRS itself with the stakeholders, and lead by example. The problem is that the system is already there on the IRS except that the one part that's missing is the reporting. If you were to follow the IRS, we as stakeholders would be the workers giving recommendations, but yet we don't get back a response of yes or no.

Thank you. That is all I have to say.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Stone. We only have 40 seconds left. I'd like to thank

you, on behalf of the social policy committee, for coming forward with your deputation as well as your written submission.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters, Mr. Brockwell and Mr. Coran of the Ontario Secondary School Teachers' Federation, to please come forward.

Before I let you gentlemen begin, committee members are no doubt aware of this, but for those who are coming to present, the Minister of Labour is now Mr. Charles Sousa. We're still receiving a lot of correspondence addressed to the Honourable Peter Fonseca who, I understand, is currently seeking opportunities elsewhere—just to announce to all those who are concerned with these matters.

Mr. Coran and Mr. Brockwell, please begin.

Mr. Ken Coran: Thank you, sir. I'll start by introducing a little bit about our organization. I'm Ken Coran, president of the OSSTF, the Ontario Secondary School Teachers' Federation. Beside me is Craig Brockwell, who is a former construction worker turned educator and now working with us. He's our Queen's Park analyst.

It's the first time you've got a piece of paper from any educator that is only one double-sided sheet in length—we've tried to be very succinct—and I'll just explain to you the process by which this paper was developed, because I think that kind of brings it all in terms of where we're going.

Internally, in our organization, we have a provincial health and safety committee, and it was the task of that committee to review Bill 160, review some of the amendments to it, prepare a paper and then work with other colleagues in the Ontario Federation of Labour to come up with some points that were consistent so that they would be stressed throughout various presentations. Looking at the lineup today, it looks like you're going to have a series of presentations that will probably have the same spin to them.

So where we decided to go as an organization was this: The Dean report came out just prior to Christmas and had a lot of great recommendations—over 40 of them. The government has put together the paper, and the paper has gone very, very well, with some tremendous improvements there. What our task is now is to take something that's good and to try to turn it into something that's maybe a little bit better, that could do with some tweaking. The ultimate goal is to improve health and safety, and that is how we approached it.

So if you look at our paper, you can see that it's divided basically into five components. The first one is called "Politicization of the Prevention System." To sum up basically what it is saying there, we would like there to be more duties that are transferred to the chief prevention officer. Why we would like that to happen is relatively straightforward. First of all, the chief prevention officer is an expert, and so if someone is deemed an expert in a field, they should be given more responsibilities and more duties.

Also, this allows that there will be tremendous times of transition. We just heard the chair mention that this whole press started with Minister Fonseca and now is in the hands of Minister Sousa, so there are transition periods. If some of the duties were transferred to the CPO, that CPO would be consistent; and if the government were to change, that CPO would be consistent. So in times of flux and times of transition, it would appear to make sense to have that one constant person having more responsibilities and more duties so that there would be consistency during different time periods.

Point number two on there talks about the autonomy of the Workers Health and Safety Centre and OHCOW. From our experience in the education sector, what we have seen is that when people have trust in the delivery system and trust who is presenting a message, it has resonance. If the goal, as I say, is to improve health and safety, these are two bodies that have earned the trust of every worker in the province. If there is a way to kind of enshrine their existence in legislation, that's one of the examples of the little tweaking that I think would carry tremendous dividends. If they're already respected, if they already have great programs, why not enshrine it so that it will continue and, in fact, be extended? Because the mechanism is already there.

The third point talks about the legal authority of the inspectors. From the analysis that our working group did, this was not part of the original Dean report, but we see that it could be problematic, because it really doesn't name the director. There could be many directors. There could be many directors in different parts of the province. There could be different lines of communication to those directors. So unless you tweak it a bit to name exactly who that director is or what director that would be, it seems like it could be confusing and could also lead to maybe conflicting decisions and time restraints not being met.

Point number four is lack of real worker reprisal protection. This one was also not part of the Dean report. This is one that is of great concern to us, because we believe very strongly in the expertise of the inspectors. If an inspector were to go to a workplace to do an inspection because of a problem that has arisen, many times they may actually witness a reprisal. It would be their testimony that should carry a lot of weight, pending on a decision from that concern. If these people aren't allowed to testify and to show what they have seen using the expertise that they have, we feel that perhaps the system is not as good as it should be. So we would hope that the government would review that situation to maybe give more power to the inspectors, should there be a reprisal.

The last point there is something that we feel also very strongly about, and this is the fact that in the Dean report, it said that workers should be able to submit recommendations to the employer. So the process would be this: There's a joint health and safety committee. Either

the workers or management could have a particular concern or a particular recommendation. If both groups in the joint health and safety committee don't reach consensus with regard to that recommendation going forward, it could very well be that whoever the authority is of whatever firm it happens to be—in our case, it would be a director of education—if there's not a consensus reached, even though there could be a very valid recommendation, it would not go up to the next level.

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If it doesn't go to the next level and it's not addressed, then conceivably we could have a grievance that would be filed and quite possibly even something that could go to the labour board, which would then incur costs from both sides. So if there is a mechanism by which a recommendation can go forward and not have it necessarily achieve the consensus, it seems that it could go a long way to ensuring that a recommendation that has value would be heard by the appropriate person and not stalemated at that particular level at the joint health and safety committee because it requires consensus.

That, Chair, in a nutshell—I know I've gone very, very quickly, and I know that people are reading the submission probably for the first time, but I think what it's tried to do is take something good, tweak it a bit and make it better, because I guess the true determination will be, does this bill achieve what it's supposed to achieve, which is improving the health and safety of workers?

Thank you, Chair.

The Chair (Mr. Shafiq Qaadri): We have 45 seconds—I repeat, 45 seconds—per side. Mr. Miller.

Mr. Paul Miller: It was a short but effective presentation.

I see that one of your concerns is enforcement of section 50 and the reprisal section. Would it be fair to say that you would agree that enforcement must be based on the principle that the cost of non-compliance is greater than the cost of compliance? Would that be a fair statement?

Mr. Ken Coran: I think so. What we would want to see is that every side has the right to present all of the information so that the appropriate decision could be made as to whether it was a reprisal or not. So, absolutely.

Mr. Paul Miller: Other people from your sector have made presentations. One of their concerns was obviously the lack of enforcement and the lack of inspectors. You would certainly like to see more inspectors, more enforcement and the ability to, on site—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. To the government, Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Just a quick question: In the last point, number 5, you mentioned some of the issues there. I'm just wondering, how would you recommend that this section or this part of the act be amended to remove the perceived onerous obligations on the joint health and safety committees?

Mr. Ken Coran: In other words, how can we make sure that those recommendations would go to the appropriate body so that they would be addressed?

Mr. Lorenzo Berardinetti: Yes.

Mr. Ken Coran: That's up to the lawyers probably. I think it would have to be amended such that you would not need a consensus for it to go forward. Whatever wording—I'm not a lawyer, but—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. To Ms. Jones.

Ms. Sylvia Jones: In your fourth point, where you talk about the lack of real worker reprisal protection, you mention, "We have had clarification that the government intends to allow direct evidence from inspectors at a prosecution." Can you tell me where you got that information?

Mr. Ken Coran: Sure. I believe that what happened is, right after the Dean report was released, the next step was to set up the IPC, and from the IPC, some of the recommendations were forwarded. They analyzed it, and then it's gone back and forth a couple of times, or within an internal working group. So it would be from whatever members we have that are in consultation with that body that we would be led to believe that to be the case.

Ms. Sylvia Jones: Because you're the first person who has had some comfort that that would change.

The Chair (Mr. Shafiq Qaadri): I'll need to intervene here. Thank you, Ms Jones, from the PC caucus, and thanks to you, gentlemen, Mr. Coran and Mr. Brockwell, on behalf of the OSSTF.

CANADIAN UNION OF PUBLIC EMPLOYEES ONTARIO

The Chair (Mr. Shafiq Qaadri): We appreciate our next presenters coming forward somewhat earlier than scheduled, President Hahn and Mr. Morin of CUPE Ontario. Welcome back, gentlemen. I know you're very well familiar with the protocol. I'd invite you to please begin now.

Mr. Fred Hahn: Good afternoon. My name is Fred Hahn. I'm the president of CUPE Ontario, and with me is Blain Morin. He is a CUPE national representative, specializing in occupational health and safety. We're pleased to make the presentations around Bill 160.

With more than 240,000 members in every community and in every riding across Ontario, CUPE is Ontario's largest union, and we're very concerned about the impact of this legislation on all workers and all workplaces in the province.

Before I begin my comments on Bill 160, I want to acknowledge the many CUPE members who have been here and talked to this committee: Tracey Newman, a CUPE member from the Halton Catholic school board; the chair of our CUPE Ontario's occupational health and safety committee, Don Postar, also a school board worker; Lisa Marion, who is a CUPE member from Queen's University in Kingston; and, of course, Harry Goslin, who's the president of Local 1750, representing workers at the WSIB across Ontario.

Following the horrible accident of December 24, 2009, where four workers met their death, Ontario made

a decision to appoint Tony Dean to an expert panel to make recommendations about Ontario's health and safety regime. CUPE expressed reservations right from the start about the Dean report with respect to the responsibility of prevention and the role of the WSIB, but overall, the expert panel's final report and recommendations were supported by Ontario's labour movement.

The Dean report gave rise to big expectations for the legislation that would follow, but when we saw Bill 160 as representatives of CUPE—and, I would say, from the rest of labour—we were unanimous in saying that Bill 160 does not reflect the heart of the recommendations that unions signed off on in the Dean report. It will not make workplaces safer in the province of Ontario. It won't prevent accidents like the one that happened on December 24, 2009, and from our perspective, it therefore needs to be changed.

In supporting the Dean report, it was never anyone's intention, nor was it the intention, we would think, of the expert panel itself, to have legislation passed that would force the WSIB to cancel all of its prevention programs—Workwell, for example—that actually work for employers to help prevent workplace accidents, injuries and illnesses. Tony Dean never said that we have to find a way to stop the WSIB from doing prevention work, yet that is exactly and precisely what Bill 160 will do, because it amends the Workplace Safety and Insurance Act to remove the word "prevention" entirely from the mandate of the WSIB. Simply put, this will not make Ontario workplaces safer; in fact, it's likely to make them less safe, because the mandate of prevention is an important mandate of the WSIB.

CUPE, along with the rest of labour, identified a number of areas in Bill 160 that we believe must be changed; you heard a little bit about them from Ken Coran and the OSSTF. We are, as they are, concerned about the over-politicalization of the new health and safety regime, minimizing the role of the proposed chief prevention officer and the new prevention council. We're concerned about the viability and the autonomous nature of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers. We're concerned about the devolution of power to Ministry of Labour directors to make binding interpretations of occupational health and safety law region by region. We think this will lead to variable and conflicting interpretations and enforcements of the law. We're concerned about the protection of workers from reprisals by declaring that Ministry of Labour inspectors would not be deemed competent or compellable to testify at hearings on their behalf. And we're concerned about new conditions that restrict the ability of workplace joint health and safety committee co-chairs and their ability to make clear recommendations to the employer.

While we share all of these concerns—and we address each of them in our written submission in detail—I want to spend the remainder today focussing on three areas that we think deserve special attention, so that the committee can truly understand how these points in Bill 160 should be amended in order to best protect workers in the province of Ontario.

First, the viability and autonomy of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers: It's absolutely critical that these key organizations be respected, and that mechanisms be put in place to protect their governance and their ability to set their priorities, approaches and philosophies to develop content and services and information that meet the needs of workers. The Workers Health and Safety Centre serves as the province's legally designated health and safety training centre, and the only occupational health and safety organization in Ontario endorsed by labour. OHCOW clinics provide needed services, as well as valuable resources, utilized by workers and employers throughout Ontario. By failing to recognize and support the necessity and autonomous roles of both of these organizations, Bill 160 threatens the autonomy of the agencies and their ability to meet their expressed outcomes in terms of training and the needs of workers and employers. So we believe that amendments must be made, as outlined in our written submission, to ensure that those organizations are autonomous.

In terms of the devolution of power to Ministry of Labour inspectors, Bill 160 would amend the Occupational Health and Safety Act to allow for directors to write interpretations of policy that would carry the force of law. The bill allows for any of the 14 Ministry of Labour directors to write interpretations and send them out to the inspectorate, such that this could create—and, we believe, would create—a patchwork of enforcement standards that benefited neither employers nor workers. Not only is it wrong to let directors decide what the law is, but it's bizarre to imagine that 14 directors could make 14 different interpretations of one law, and then order Ministry of Labour inspectors to enforce them.

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A recommendation for the devolution of power could not be found in any of Mr. Dean's 46 recommendations, so we recommend that section 3 of Bill 160 be deleted.

Amendments to the Workplace Safety and Insurance Act: With respect to this part of Bill 160, there is an amendment to the Workplace Safety and Insurance Act, and there's one basic point to be made. To remove prevention from the mandate of the Workplace Safety and Insurance Board, as this bill does, will not make Ontario workplaces safer. We believe it will lead to the agency being rendered less able to make sure that workplaces are safe, and it will eliminate their ability to put pressure to bear on employers.

There are many programs that happen at the Workplace Safety and Insurance Board that work well; for example, the Workwell audits. This program involves WSIB staff going into workplaces over a period of time and working with the employers to identify steps and changes that need to be made in that workplace to make it safer and which, when done properly, can actually lead to lower premiums. This program has pre-existed any changes to the WSIB, and it has existed since the early

1990s. CUPE canvassed our colleagues in the labour movement, and to a one, we can find no union, union leader or union health and safety activist who does not support Workwell as a highly effective program that leads to safer workplaces and which should absolutely be maintained. But as it's written, Bill 160 will likely cause an end to this vital program.

Of course, there's Return to Work, another example of a widely supported program run by the WSIB that includes a prevention function.

Insurance and prevention are inherently linked. The arguments that may be made that there is no inherent link between an insurance function of a board and prevention functions is simply not supportable. Even a private insurance company tells a homeowner that they need to make improvements to fireplaces; otherwise, their premiums will rise to reflect the increased likelihood that their house could burn down. Can anyone separate the prevention component of that argument from the insurance component?

If you can't find a good reason to force the WSIB to stop talking to employers about how they can better prevent workplace accidents and injuries, then you must amend Bill 160 to keep prevention as part of the mandate of the WSIB.

The issues addressed in Bill 160 are far more complex, we believe, than any of us fully appreciated up until now. There's an old saying that the road to hell is paved with good intentions, and we think that Bill 160 is an excellent demonstration of how true that is.

We're asking the committee to slow down the process to reassess how Bill 160 measures up against the intent of the Dean report and the intent of all of those who supported the expert panel.

The details of our suggested changes are in our written brief. Please take the time and make the necessary changes to this bill so that it actually helps to make Ontario workers more safe, which is what we all want to do. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. Thirty seconds per side. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you for your presentation today. If an inspector were permitted to attend an OLRB hearing in cases where they had direct evidence of a section 50 reprisal, would this alleviate one of your concerns?

Mr. Fred Hahn: Yes.

Mr. Lorenzo Berardinetti: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Arnott.

Mr. Ted Arnott: Thank you very much for your presentation, Mr. Hahn. It's good to see you again, Blain. My question to you is quite simple and straightforward: Do you think the government should withdraw this bill and start again, or do you think that with amendments the bill can be fixed to your satisfaction?

Mr. Fred Hahn: There is a series of amendments that we've suggested. One of the issues that is also happening is there is the WSIB funding review. So from our perspective, it would also be useful to have a comprehensive view of this. But we think that some of the positive elements—

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Miller.

Mr. Paul Miller: Thanks, Fred. Basically, the chief prevention officer, his role in the set-up that they've got in Bill 160, with his close relationship with the ministry, do you think that he may be following a political agenda that may interfere with the independent health and safety organizations in our province?

Mr. Fred Hahn: The way the bill is written, absolutely. The chief prevention officer and occupational health and safety must be removed from the political process. It is not about politics; it is about keeping workers safe.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, President Hahn and Mr. Morin, for your deputation on behalf of CUPE Ontario.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward, Mr. Sid Ryan of the OFL, Ontario Federation of Labour, and colleague. Please begin.

Mr. Sid Ryan: Okay. Thank you. My colleague is Laurie Hardwick from the OFL. You'll hear a lot of repetition here, I guess, in terms of labour's position. It's pretty consistent across the board. I want to thank you for the opportunity to present here today.

Last week, a 26-year-old died a gruesome death when he was pulled into an industrial machine. Last year alone, there were 490 fatality claims and over 240,000 reported injuries in Ontario. I'm calling your attention to these grim facts so that we all understand what is really under discussion here today.

At its heart, this legislation is about the extent to which we value human life. In a full and frank meeting with Labour Minister Sousa two weeks ago, I outlined six major concerns that were out of step with the expert panel recommendations, both in spirit and intent. The bill is the first attempt in 20 years to make significant improvements to the Occupational Health and Safety Act. I cannot emphasize enough, therefore, how important it is to get it right.

In that regard, sections 4 and 5 and subsection 8(2) are extremely troubling to us, in that they will lead to the politicization of the health and safety system. The expert panel recommendations were clear: They called for the new organization to be headed by a chief prevention executive. Instead, Bill 160 invests the minister of the day with those powers and leaves day-to-day life-and-death decisions captive to the rise and fall of political fortunes and popularity polls.

Likewise, investing civil servants with the power to make law and sidestep the authority of the Legislature and the cabinet also presents a very real danger to the overall integrity of the system. The government has said

that it is trying to address inconsistencies in the application and enforcement of the health and safety legislation. We also have concerns about this issue, but this is not the way to fix the problem. I'm prepared to bring our affiliates to the table and sit down with the ministry to work out a solution to this issue.

We also call your attention to extremely troubling attempts to tie the hands of health and safety inspectors. They are one of the most critical bulwarks against death and injury in the workplace, and imposing restrictions and limitations on them will impede protection for workers. The bill also makes inspectors not competent to be a witness at a hearing on a reprisal complaint. This undermines the intent of the expert panel on the issue of improving reprisal protection for workers.

The expert panel rightfully viewed the issue of reprisals as an extremely serious impediment. I spoke about the young man, Justin, who was killed last week in an industrial machine. CBC interviewed Venn Bootan, a former worker of the company, who says that he'd been let go only a month before for raising concerns about numerous health and safety violations. Reprisals by employers happen so frequently and create such a culture of fear that experts point to them as a major barrier to the prevention of workplace deaths. More roadblocks have also been thrown in the way of what should be a straightforward communication from the joint health and safety committee. If you continue to allow the administrative barrier to moving the co-chair recommendations forward, you'll silence the very people whose information can prevent deaths and injuries from occurring.

Finally, we are recommending that Bill 160 include specific provisions to designate and fund both the Occupational Health Clinics for Ontario Workers and the Workers Health and Safety Centre. It is absolutely critical to us that both of these organizations remain unimpeded for the work that they do.

We have detailed these six top-priority items in our submission. Each one of them represents a serious departure from the expert panel recommendations. Taken together, they fundamentally alter the stated intentions of the government to create legislation to protect workers, unionized or not, from injury and death.

Politicians too often become inured to stats and numbers, but we are asking you to try to connect with even one of these deaths and imagine that that person is a real human being, alive, well, going to work and dying as a result of this—am I interrupting your conversation over there?

Interjection.

Mr. Sid Ryan: Okay.

We don't want you to accept the 490 deaths last year as the status quo. There is nothing normal about even one of them, and I'm urging you to view these numbers as the catastrophe that they are.

It was utterly devastating when four construction workers fell to their deaths on Christmas Eve in 2009 because Metron Construction and its owner, Joel Swartz, viewed them not as people but simply as a means to an end. This is the reality of too many workplaces. Their deaths, in part, prompted the ensuing expert panel review. You can appreciate how much is at stake.

If these changes are not made to our satisfaction, the labour movement will not be able to support Bill 160.

I'll be happy to take any of your questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ryan. We'll begin with the PC caucus. About a minute and a half per side. And just to inform committee members and presenters that committee members are allowed to converse. Thank you.

Mr. Arnott.

Mr. Ted Arnott: Thank you, Mr. Ryan, for your presentation. We appreciate it very much. It was very clear, very well laid out, and the written presentation helps us continue the deliberations after, as the discussions continue. So thank you again for your presentation.

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Mr. Sid Ryan: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Miller?

Mr. Paul Miller: Brother Ryan, how are you today?

Mr. Sid Ryan: I'm excellent.

Mr. Paul Miller: I just wanted to know: One of the major problems over the years, Sid, has been the lack of enforcement and the lack of inspectors' ability to fine on the spot—sizable, meaningful fines. Do you feel that Bill 160 has addressed section 50 to your satisfaction in any way, shape or form?

Mr. Sid Ryan: Well, not as it's currently written, it has not. But what we need to see—this is the enabling legislation. What we actually need to see is what will come forward in terms of what will be accepted in terms of the recommendations that were made by the expert panel. If the expert panel recommendations are implemented, it's a huge step forward in terms of a deterrence against reprisals against workers in the workplace.

But as I say, the devil's in the details. Let's see what actually makes it into the legislation, flowing from the expert panel's review.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. To Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Mr. Ryan, for coming out today and bringing some very valid concerns forward.

I wanted to ask you one question in particular: If all training-related responsibilities under this bill were transferred from the minister to the chief prevention officer and certain powers regarding oversight and monitoring of designated entities were transferred as well to the chief prevention officer, would this address one of your concerns at least?

Mr. Sid Ryan: Yes, it certainly would. There's a huge concern that we've got in the labour movement that if you leave the powers vested in the minister themselves—we've all seen, as an example, when the Tories were in office that we had a workplace health and safety agency that was doing a tremendous job on behalf of workers in

Ontario. The ideology of that particular party—it didn't see the health and safety of workers in Ontario as a priority. They killed that agency and stuffed the whole question of prevention into the workers' compensation system, which nobody believes, in this province, has worked effectively ever since.

We're afraid that if we vest the powers, as we just talked about a few moments ago, in the minister, then down the road—God forbid there would ever be a Tory government in this province, but if there was, if that unfortunate situation ever happens, we could find ourselves once again where the minister of the day starts playing politics with the lives of workers in Ontario. We'd find ourselves in that situation.

So in order to prevent that, the suggested changes will help us protect ourselves against the Conservatives.

Mr. Lorenzo Berardinetti: One of the politicizations that could—

Mr. Sid Ryan: Well, exactly. Health and safety is far too important to be a partisan issue. It really is not a left, it's not a right, it's not an NDP, it's not a Liberal or a Conservative issue. It's a workers' issue, and everybody should be concerned that when somebody leaves home in the morning, they go home, back again, safe to their families at night time. That's what the issue is, and it's not about the politics, like it was when the Tories got in and played politics with the lives of working—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti, and thanks to you, Mr. Ryan, for your deputation—not only today, but your many contributions. I should also say that it's nice to see the government members sharing, at least on occasion, some of the sentiments that you've expressed today.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair (Mr. Shafiq Qaadri): I'd now like to invite our next presenter to please come forward: Mr. Warren Thomas of the Ontario Public Service Employees Union, OPSEU, and colleague. Welcome.

I should just mention: If there are—how would one say—some silent contributors, please feel free to introduce them, at least, so they can be part of the permanent record and it would be then part of the record of Parliament.

Thank you. Please begin.

Mr. Smokey Thomas: I have with me today Lisa McCaskell. She's a health and safety expert with the union. And if I talk fast, do we get more time for questions? Yes? Perfect.

I have two areas of concern; one is reprisals. The bill does not address the critical issue of reprisals against workers, one of the topics that the expert panel repeatedly heard compelling evidence about. Bill 160 does offer some assistance in this regard by allowing an inspector, in certain circumstances, to refer a reprisal complaint to the OLRB, but then renders that assistance almost useless by making inspectors neither competent nor compellable witnesses in a proceeding relating to a reprisal complaint. While OPSEU understands that, legally, there may be good reasons for a ministry inspector to be a non-compellable witness, we are deeply concerned about this new impediment of competency, which will prevent inspectors from providing evidence that they have gathered when investigating a worker's complaint.

Power of directors: Bill 160 gives directors of the Ministry of Labour the power to interpret law and to publish policies that have the force of law. It requires Ministry of Labour inspectors to abide by these policies as a requirement of the act. We have heard from the Ministry of Labour that it needs this new provision in the act to ensure consistency in the enforcement activities of its inspectors. OPSEU is aware that the expert panel heard complaints from employers and from labour representatives about inconsistent enforcement activities by inspectors within and between regions. Although OPSEU recognizes that there may at times be inconsistent approaches by inspectors, more frequently what appears as an inconsistency can be explained by different fact situations on the shop floor. We would welcome the opportunity to provide examples of such situations.

What is more critical, in our view, is the inconsistent direction given by different levels of management within the ministry. OPSEU inspectors are able to provide examples of receiving substantially different directives from managers in different regions on important issues such as the provision and use of lockout devices and gathering information and reports during fatality investigations. Additionally, OPSEU staff have witnessed very different approaches by inspectors who are following management directives when investigating workplace refusals, complaints concerning workplace violence and definitions of critical injuries.

If the ministry wants to address problems of inconsistency, it, like every other employer, has the ability to do so. It can improve its communication processes and it can improve its training. If employees do not follow existing policies and procedures after they have been communicated, it can discipline them; managers can manage.

OPSEU strenuously opposes the inclusion of these amendments to the act, which essentially give powers to unnamed directors to interpret law and make policies which will have the force of law. If this amendment becomes part of the act, inspectors who violate a ministry policy will have violated the act. This is unacceptable. This section must be removed from the bill in its entirety.

Do you want to talk about section 3?

Ms. Lisa McCaskell: No, let's take questions.

Mr. Smokey Thomas: Okay, we'll take questions.

The Chair (Mr. Shafiq Qaadri): Thank you. Two minutes or so per side: Mr. Miller.

Mr. Paul Miller: Thank you for your presentation. One of the biggest concerns, and it seems to be a recurring theme here, is the lack of the ability of the inspector to go into the place of employment and set fines as well as to take part—this bill actually weakens

their position even further—in investigations and in giving expert information, especially when they are familiar with the field. Most inspectors are assigned to the area of expertise that they might have worked in, in previous employment, or trained well in. Do you feel that this bill weakens their position?

Ms. Lisa McCaskell: I don't think that it weakens their position, but it doesn't strengthen their position. The inspectors have not been able to actively investigate complaints of reprisals. There have been virtually no prosecutions on reprisal complaints for years. We were pleased to see that the expert panel took it on. When we saw what the bill did, which was make our inspectors unable to even give evidence at a reprisal hearing—it weakens their position there, yes.

Mr. Paul Miller: So you agree that it does weaken their position. This bill does nothing concrete to improve section 50, which is enforcement, and also the action of reprisals. I found it amazing that section 50 was dealt with so lightly. That's been the biggest problem over the years, in all the years I've worked too: the lack of ability of the inspector to actually do something. The fines are minimal at best, and sometimes they don't even levy a fine. They get a slap on the hand. How do you feel about that?

Ms. Lisa McCaskell: I would agree with you.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Again, on behalf of the government, thank you for your presentation today. I just wanted to focus on one area: section 3 of the bill. I know you've touched on this issue briefly, the issue of consistency. If section 3 of the bill was removed, do you think that would address the issue of consistency?

Ms. Lisa McCaskell: I don't think it would address the issue of consistency, but as it is, it doesn't address the issue of consistency either.

OPSEU agrees that there are problems with inconsistency. As President Thomas pointed out, there are various reasons for that. Some of it is that there are different fact situations on the shop floor. Some of it may be that there are extremely complex and technical workplaces there, where inspectors aren't actually getting the direction, the training and the expertise they need.

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We're all in favour of consistency and would like to see it be put into place. We're willing to sit down at a table and talk about what kind of measures we might be able to put in place that would ensure that. We want to see Ministry of Labour policies and procedures that are transparent, that are available, that are posted on the website so people know what the inspectors are actually supposed to do out there. We'd like to see a table set up where the workplace parties and the prevention council can come together when they're grappling with new health and safety issues, trying to create new policies and procedures, to bring the parties together to work those things out, come up with something and then post it on the website so everybody knows what it is. But to have a director, one single person in a room whom we don't have any access to, creating new policies and putting them out there with no actual consultation with people down at the shop-floor level who know what's going on, is simply not acceptable.

Mr. Lorenzo Berardinetti: Thank you very much for that.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. To Ms. Jones.

Ms. Sylvia Jones: Yes. In an effort to de-politicize the work of our committee, I agree with you that Bill 160 would not have prevented the Christmas Eve tragedy.

My question to you is: Out of the Dean report, are there things in that report that you would have liked to have seen incorporated into Bill 160?

Ms. Lisa McCaskell: We see Bill 160 as the enabling legislation; we don't see it as the cure-all for everything. We understand that they need to put in place the building blocks to get the chief prevention officer up and running, to get the prevention council up and running. I think it's the job of the new CPO and the prevention council, in consultation with workplace parties—with labour and with employers—to then figure out how best to put in place the other aspects of the Dean report.

I think it would have been too early to try to do it all at once. This bill does get at the training, which is one of the critical issues. We're pleased to see what's there about training. If we can shift the responsibility from the minister over to the chief prevention officer, as we've suggested, to actually deal with those training issues, that makes sense to us.

Ms. Sylvia Jones: Are you comfortable with much of this detail ending up in regulation, which can be changed very quickly without public consultation?

Ms. Lisa McCaskell: I think it would have to be in regulation, yes. It can be tricky.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Mr. Thomas and Ms. McCaskell, for your deputation on behalf of OPSEU.

MR. JOHN MILLHOLLAND

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter, Mr. John Millholland, who's a member of the Communications, Energy and Paperworkers Union, who comes to us via conference call in Sarnia. Mr. Millholland, are you there?

Mr. John Millholland: Yes, I am, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. If we could just adjust the volume on there. This is Dr. Qaadri, Chair of social policy. You have exactly 10 minutes in which to make your presentation.

Could you just do a quick sound check?

Mr. John Millholland: Okay. Can you hear me?

The Chair (Mr. Shafiq Qaadri): Yeah, that's great. Please proceed. Time is now.

Mr. John Millholland: All right. I thank you for the opportunity to address the social policy committee on Bill 160. I addressed the Tony Dean panel when I went

through London and I really liked what I saw in the recommendations that came out from the panel. Unfortunately, this bill doesn't address things that came out from the panel as well as I would have liked to have seen. I will say, as the sister said earlier, that I really do appreciate the fact that we've started looking at training and having some specific requirements in the act with regard to training. So in some ways, Bill 160 is definitely a move in the right direction.

However, as has been echoed before by the labour folks, Bill 160 gives way too much power to the Minister of Labour. A lot of this, I think, could be shifted down towards the chief prevention officer and the prevention council. With regard to that council, as the act has it right now, a joint health and safety committee has equal or greater membership by labour folks. I think that the labour folks within this provincial council definitely have to equal or outnumber management.

The threat to the autonomy of the Workers Health and Safety Centre and the OHCOW clinics is also a big concern of mine. I'm an instructor with the Workers Health and Safety Centre and I see the value in their programs. I also sit on the local advisory committee for the Occupational Health Clinic for Ontario Workers. As Mr. Ryan addressed earlier, the concern is: When certain political parties get in, what's going to happen to these groups? We don't want to see what happened with the Harris government happen again to good organizations that represent workers, like OHCOW and the Workers Health and Safety Centre.

I also have concerns around the accumulation of power by senior Ministry of Labour bureaucrats, such as directors, to write law. This is a flawed and unnecessary approach. This section has nothing to do with the objective of preventing needless tragedies or the recommendations of the panel.

I'm also concerned about the failure to protect workers from reprisals. It is definitely not dealt with. It's actually, in my opinion, a step backwards. Vulnerable workers who are victims of reprisals for their attempts to ensure their health and safety are not effectively protected by this bill. Ontario workers have the right to participate, know and refuse, and these rights must be powerfully and swiftly enforced.

I am particularly concerned that Bill 160 places limitations on the ability of inspectors to appear before the Ontario Labour Relations Board and provide testimony and evidence. I also feel that these are the people that are out there on the floor, looking at workplaces, trying to make things safe. These folks need more power. They need to be able to lay charges. They need to be able to represent themselves in court as to what they've seen. I compare it to the police. I would say that the Ministry of Labour inspectors, in my opinion, are the policemen out in the workplaces that are enforcing the conditions. When they see somebody break the law, they should be able to enforce the law. This bill does not allow for that and leaves me drastically concerned.

I'm also concerned about the removal of obstacles to the joint health and safety co-chair's recommendations. It could be addressed in a much better fashion. You could have just simply said that recommendations will be accepted from the committee or the co-chair. I don't see a need to have to justify it; it doesn't make a whole lot of sense to me. I sit on a joint health and safety committee, and I also chair that committee. I, personally, thought I already had this right, and now that I'm reading it I'm seeing that I don't really have this right. I need to be able to make recommendations when the employer is stonewalling so that I can get things done. If nothing else, a lot of times it helps to put the fear in the employer that I am going to call the inspectors in to make them move on recommendations that we've made. We don't make recommendations frivolously and we should be able to have this power.

Any questions?

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Millholland. We have about two minutes or so per side, beginning with Mr. Berardinetti of the government.

Mr. Lorenzo Berardinetti: Thank you, Mr. Millholland, for your presentation. I'm Lorenzo Berardinetti, on behalf of government.

A common theme seems to be evolving this afternoon, and that is the concern that the minister be too powerful and the fact that there's a desire to depoliticize. I know you've raised that in your presentation today. Do you think the CPO should then have more powers, that the powers should be vested in the chief prevention officer?

Mr. John Millholland: At the very least, it needs the role backed up, the CPO. I'm hoping the people that select the chief prevention officer know what it's all about in this province. The minister himself, as was mentioned earlier, is an elected position who really doesn't come from a safety expertise point of view. To me, it would be much more prudent to have that person taking care of health and safety in Ontario rather than an elected official. We've gone through a lot of different ministers lately and I really don't feel that they have the expertise that somebody like a chief prevention officer would have.

Mr. Lorenzo Berardinetti: That's an excellent point. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Mr. Millholland, you are now with the PC caucus, Mr. Arnott.

Mr. Ted Arnott: Yes, Mr. Millholland, thank you very much for making your presentation. We listened to it very carefully and we appreciate your advice.

I just want to follow up on Mr. Berardinetti's question, because you indicated that you believe that Bill 160, as it's presently constituted, gives too much power to the Minister of Labour. Much government legislation empowers the government to undertake certain responsibilities and gives government power through the minister of the day, but you'd obviously like to see amendments to this legislation to clarify that issue?

Mr. John Millholland: Definitely. Mostly, you're politicians that I'm talking about, and I don't mean to offend you, but when you're given a different portfolio, sometimes I guess it's a move up for you. Politicians

aren't necessarily experts, in my opinion, on things like health and safety, in particular. We've seen several different ministers through that position and I would suggest that we need to elect somebody that knows all about health and safety through the prevention council. I hope that answers your question.

Mr. Ted Arnott: Yes, thank you.

You mentioned and a number of the presenters this afternoon have mentioned that there is insufficient protection for workers against reprisals. What specific suggestions do you have in that regard?

Mr. John Millholland: In my opinion, the Ministry of Labour inspectors should be able not just to refer these things to the Ontario Labour Relations Board; the Ministry of Labour inspectors should be able to lay charges, they should be able to go and represent, as a policeman would when he lays charges in the court system. They are [*inaudible*] witness.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Now to the NDP caucus. Mr. Miller.

1500

Mr. Paul Miller: Hi, John. You've served on a joint health and safety committee in the past; you mentioned that. I have, too. I don't see anything on internal enforcement in this bill. Do you believe that employers should be obliged to implement recommendations made by the joint health and safety committees and health and safety representatives?

Mr. John Millholland: Definitely. For the most part, when a joint health and safety committee puts a recommendation in, it's not frivolous, and the company should act on it. In my own experience with the 21-day recommendations, I've actually put them in before as a worker rep, thinking that I actually had the right to have it responded to just as a single rep, and got some very substantial changes made in the workplace that have definitely saved exposures. Exposures, obviously, can lead to worse things, so—

Mr. Paul Miller: Would you like to see certified worker members provided with unilateral power to issue stop-work directions?

Mr. John Millholland: I definitely would like to see that.

Mr. Paul Miller: I didn't see any of that in the bill. Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Millholland, for your deputation on behalf of the paperworkers' union via conference call in Sarnia.

MINISTRY OF LABOUR EMPLOYEE RELATIONS COMMITTEE

The Chair (Mr. Shafiq Qaadri): Thank you for taking your positions, Mr. Elliott and Mr. McIlwrath of the Ministry of Labour Employee Relations Committee. Gentlemen, please officially begin now.

Mr. Len Elliott: Good afternoon, committee members, and thank you for the opportunity to speak to you today.

I'm Len Elliott, Ministry of Labour Employee Relations Committee OPSEU chair, and this is Gib McIlwrath, Ministry of Labour Employee Relations Committee OPSEU vice-chair. As well, we are occupational health and safety inspectors for the Ministry of Labour. More importantly, we are proud workers in the province of Ontario, and we believe we will be directly affected by the amendments to the act.

The five key points that we would like to see changed within the bill are attached below, and we would like to take this opportunity to speak to you about the two points that we feel, as inspectors, we bring a certain specific point of view to: lack of real reprisal changes, and directors writing policy into the act and having the force of law.

We believe that the number one issue that all groups should be telling you about is the lack of real strength in the reprisal section of the Occupational Health and Safety Act and as well in the new proposed Bill 160 legislation.

Failure to protect workers from reprisal: Vulnerable workers who are victims of reprisal for their attempts to protect their health and safety are not effectively protected by this bill. Ontario workers have the right to participate, know and refuse, and this right must be powerfully and swiftly enforced. We are particularly concerned that Bill 160 will place limitations on the ability of inspectors to appear before the OLRB and provide testimony and evidence to protect workers.

Workers continue to die at a rate of more than one per day in the province of Ontario. This cannot continue, and as you go forward with proposals from interest groups on Bill 160 and you negotiate amendments to try to reach consensus amongst yourselves to decide what the employer groups can live with and what labour groups can live with, I am here to tell you our safety and our lives are not up for negotiation.

You must give real strength to inspectors under section 50 reprisals. You must allow us to properly investigate and question the parties involved so factual reports may be prepared as a basis for the law to follow its proper course, whether before the courts or the Ontario Labour Relations Board. This would ensure that all parties would be held accountable.

Presently, when we go to a workplace on a reprisal complaint, the policy and training from the Ministry of Labour says that we are not allowed to do anything. We only investigate the alleged complaints that brought rise to the reprisal. You have the multi-language yellow document that we give out—and that's the only thing we're allowed to do—that tells the person to go to the OLRB. It is then up to the worker to hire a lawyer and travel to Toronto to have their case heard when they are not working in a reprisal scenario.

In the proposed Bill 160, you have said that MOL inspectors are not competent or compellable and therefore cannot present at the OLRB when it comes to reprisals against workers who are standing up for their rights and their lives. This piece must be changed to allow inspectors to not only investigate, but to provide

their report or present evidence at the OLRB for a reprisal against workers.

Employment standards officers in the Ministry of Labour have the power to reinstate and award remuneration for the workers in employment standards reprisal situations, so it is not that far of a stretch to empower MOL safety officers to do this as well. We believe that this should be the main focus, so that we can all help prevent a similar tragic event where five vulnerable workers fell from a scaffold, critically injuring one and killing four others on Dec 24, 2009.

It is appalling to think that in Ontario in 2011, if I speak up about safety concerns that may kill me, I may be fired or reprised against and unable to provide for myself or my family. However, if I say nothing, I get to eat and provide for my family but at the risk of death or injury to myself or my coworkers if I remain silent.

On April 28 every year, fallen workers are recognized at the Day of Mourning ceremonies across the world, where at 11 a.m. we observe a minute of silence for those fallen workers. This day is recognized internationally because workers are being killed everywhere around the world. However, I cannot be silent when it comes to reprisal investigations by health and safety inspectors. You must give real strength to the reprisal section, section 50, for the protection of workers in the province. Without the ability to do this, the expert panel was a waste of time and those four workers who died on December 24, 2009, died for nothing.

Powers of directors: the accumulation of powers by senior MOL bureaucrats to write law. We are deeply concerned about the section of the bill that gives directors of the ministry the authority, without any oversight and without any warning, to publish policies that have the force of law. We cannot accept any legislation that gives the government of the day these secret powers.

The section regarding directors having the ability to write policy and that an inspector is to follow the policy will be written into the act. No other employer gets to do this. Why does the Ministry of Labour? The ministry says it is to do with consistency of inspectors across the province. Well, as the union chair of the labour relations committee, I can tell you that this is labour-relations-related. Management wants to control inspectors in the field or have the law on their side to help them manage, rather than managing. This has the potential to make inspectors vulnerable workers by being in a position where they have to follow policy even if it contradicts the law. If a private sector employer's senior management came to the government and asked for a law that helped management to do their job, that employer would be asked—or kicked—out of the Legislature.

When the farming sector came under the jurisdiction of the Occupational Health and Safety Act in 2006, the 16 inspectors first chosen for this were bringing forward objections to how the ministry expected us to carry out inspections in this sector. This was due to pressure from the stakeholders and the farming employer groups, not workers on farms. Near the end of the three-week training that the inspectors received, the director of health and safety said to the entire group that if we cannot follow management direction as it pertains to enforcing safety within the farming sector, then maybe we should leave the program. Instead of doing the right thing and letting us enforce the act, they simply asked us to leave the farming program. This is an example of trying to control inspectors' actions that were clearly in the interest of the farming sector workers of Ontario.

Early on, when farms had just come under our jurisdiction, I was in a farm conducting an inspection and ended up writing more orders in one workplace than the rest of the province had written at that point. When management got my report, I was questioned and challenged as to why I wrote that many orders: not by the employer but by management at the Ministry of Labour. I write orders for the protection of workers in this province, as do all of my colleagues.

So when I challenged the assistant deputy minister on March 3, 2011, the day Bill 160 was released, about the directors' policy piece and that MOL inspectors would be breaking the law if they did not follow the policy, they could not answer the questions or concerns that we had. And again last week, when I confronted the same ADM on this, he would only say that he disagrees with me and that that is not the case.

Well, that answer is not good enough, and in that, senior management is now hiding behind the contempt of the Legislature excuse not to give any answers or explanations as to why this piece is in Bill 160 when it was not in the expert panel report. We fail to understand how the directors' piece would enhance the enforcement of the Occupational Health and Safety Act.

We ask that you support the five changes that labour is putting forward. I look forward to answering any questions and thank you again for your time today.

The Chair (Mr. Shafiq Qaadri): Thank you. About 45 seconds a side, beginning with the PC caucus: Ms. Jones.

Ms. Sylvia Jones: You've raised the same issues that other presenters have brought forward, so I don't have any other questions.

1510

Mr. Len Elliott: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: First of all, I'd like to compliment you two gentlemen for stepping forward. This is long overdue. You are a compliment to your organization and the people you represent. Congratulations. It's music to my ears. It's about time the inspectors had their hands uncuffed—it's about time. For you to stand up to the ministry is extremely brave; I'm very proud of you. Keep up the good work. Hopefully, we can get some changes to this bill. This certainly isn't suitable.

Mr. Len Elliott: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: On behalf of all the government members, I want to thank you for your presentation today. This is an excellent document; I'm just

looking at it right now. The Italian, which I could read, is perfect. I wish my father had this when he was working because they had no protection back then. Excellent presentation. You brought up some very good points, and we are listening.

Mr. Len Elliott: But to your point, that's all we're allowed to do. You just got what I would give to any worker reprised against in the province, and I need it to be clear that we need strength in the reprisal section, because that is not good enough to protect me on the job.

Mr. Lorenzo Berardinetti: Yeah, but that did not exist 30 years ago.

Mr. Gibson McIlwrath: There's no mention of complaining to the Ministry of Labour. It's all to the OLRB.

Mr. Lorenzo Berardinetti: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Elliott and Mr. McIlwrath, for your deputation on behalf of the MOL Employee Relations Committee of OPSEU.

CANADIAN MANUFACTURERS AND EXPORTERS, ONTARIO DIVISION

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Mr. Howcroft and Ms. Marchese of the Canadian Manufacturers and Exporters, Ontario division. Please begin.

Mr. Ian Howcroft: Good afternoon, Chair, and hello, everyone. My name is Ian Howcroft. I'm vice-president of Canadian Manufacturers and Exporters, Ontario. Unfortunately, Maria Marchese, our director of workers' compensation policy, could not join me, but we do appreciate the opportunity to provide the standing committee with our comments on Bill 160.

Just a little bit of background: CME is Canada's leading trade and industry association and the voice of manufacturing and global business in Canada. Our association represents more than 10,000 leading companies nationwide. I'd like to note that 85% of our members are small- and medium-sized enterprises. Our membership network accounts for about 82% of Canada's manufacturing output and 90% of our manufacturing exports.

It's also important to note that every dollar invested in manufacturing generates about $3.25 in total economic activity, the largest economic multiplier of any sector.

CME's focus and involvement on workers' compensation and occupational health and safety is long-standing. As the Canadian Manufacturers' Association, we provided input to Justice Meredith when he was creating Ontario's workers' compensation system almost 100 years ago.

Occupational health and safety is also a long-standing priority issue for our members. We have taken a leadership role to promote health and safety, and we have worked with partners to provide demonstrable benefits and successes over the years.

In June 2010, CME made representations to Mr. Tony Dean during his consultation on the review of Ontario's health and safety system. Consequently, we feel well positioned to provide feedback on the changes being proposed in Bill 160.

One of the most important issues identified by our members was the inconsistency of inspectors with respect to their advice, orders issued and application of legislative obligations. To this end, section 3, requiring the establishment of written policies respecting the interpretation, administration and enforcement of the act, and the new requirement for inspectors to follow any policies established by the director, are vital and must be maintained. Employers want to see improved consistency of inspectors meeting their responsibilities.

This point was also made by CME as part of our work on the Open for Business initiative. One of the top five priorities of our manufacturing sector project focused on the Ministry of Labour to better address this issue. As part of Open for Business, we've established two standing working committees with the ministry, one to address customer and client service issues and the other to deal with policy and regulatory issues.

Also of significance was the need for a clearer distinction between the roles and responsibilities of the various health and safety system partners involved in the administration of the system. Clearly, the need to reduce the duplication of effort and confusion regarding the roles of the various agencies and branches dedicated to health and safety is critical. To this end, we recommended, and therefore we support, the movement of the prevention function out of the WSIB to the Ministry of Labour.

Bill 160 creates a new prevention role under the ministry, with a new prevention council and a chief prevention officer. These are important steps towards the better alignment and integration of all prevention partners' activities.

It's also critical that this new prevention entity not fall within the enforcement branch of the ministry: That would be counterproductive to the goal of assisting employers with their prevention activities. Employers must have confidence that the health and safety associations are truly partners in working and promoting health and safety in their workplaces.

The establishment of a chief prevention officer is an important piece of this new prevention arrangement. This role must have a deputy-ministerial level of authority.

Given that approximately $220 million is spent annually on prevention as part of the system, it is vital that the legislation include a provision regarding the transparency of all monies spent by the ministry in carrying out its prevention mandate, including the inspectorate. The grants provided for in paragraph 4 of subsection 4.1(2) must be subject to clearly articulated business plans with demonstrable health and safety improvements. Furthermore, grants must be transparent in both the amounts provided for and the outcomes that are to be achieved. It must be emphasized that these funds are paid for employers and do not come from the consolidated revenue fund.

Mr. Dean's recommendations impose training requirements for employers. It's vital that the implementation of

the new training requirements considers all means of training available, such as online, and not be limited to just classroom training. Training requirements must also factor in training equivalency for courses already taken so as not to duplicate what has already been learned.

In closing, the CME believes that Bill 160 is an important first step in addressing the need for a clearer distinction between the roles and responsibilities of the various health and safety partners. Clearly, the need to reduce the duplication of effort and confusion regarding the roles of the various agencies and branches dedicated to health and safety is critical.

We support the main thrust of the bill, particularly the movement of prevention to the Ministry of Labour and the creation of a new chief prevention officer and a prevention council.

We support the retention of section 3, as stated earlier. It is vital that the director be able to have the orders and policies enforced.

We recommended, and therefore again we support, the movement of the prevention function out of the WSIB to the Ministry of Labour. Bill 160, in its new provision allowing for the creation of a new prevention role under the Ministry of Labour, with a new prevention council, is an important step to better align and integrate the prevention partners' activities.

We also think that the chief prevention officer must have the status of a deputy minister, and we believe it critical that the new prevention entity not fall under the MOL enforcement branch.

We also believe that it's vital that the legislation include provisions regarding the transparency of all monies spent by the ministry in carrying out its responsibilities and mandate.

We thank and applaud the efforts of the interim prevention council and the stakeholder engagement process. It's our position that the government can only benefit from such stakeholder engagement, and we look forward to continuing to provide input as the system takes its further and future shape.

Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Howcroft. About a minute or so per side, beginning with Mr. Miller.

Mr. Paul Miller: No questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. To Mr. Berardinetti.

Mr. Lorenzo Berardinetti: On behalf of the government members, thank you for coming out today and making your presentation.

Mr. Ian Howcroft: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. To the PC caucus: Ms. Jones.

Ms. Sylvia Jones: I don't have any questions. Thank you for your presentation. I appreciate it.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Mr. Howcroft, for your deputation on behalf of Canadian Manufacturers and Exporters, Ontario division.

Our next presenter is scheduled for 3:30. It is my obligation to allow the time to at least reach 3:30 before we can adjourn for the day. That will be the last presenter. So we're recessed till then.

The committee recessed from 1518 to 1522.

MR. STEPHEN SINKA

The Chair (Mr. Shafiq Qaadri): Committee members, our next presenter, Mr. Sinka, is here. I'll give you a moment to collect yourself, Mr. Sinka. I just remind you that you have exactly 10 minutes to make your presentation. The time remaining will be distributed evenly among the parties. I would respectfully invite you to please begin officially now.

Mr. Stephen Sinka: Thank you. Health and safety is job one, we can all agree, or so it's said. The reality of health and safety, however, is a completely different thing, and I believe that is why you need to hear and heed the opinion of workers—in this case one who, after 31 years with Loblaws and seven years as an instructor, has seen quite a bit. I've had the privilege of instructing over 400 days of safety courses over the past six years, which represents nearly 3,300 hours of classroom time. From Toronto film studios to the Toronto West Detention Centre, the Ontario Nurses' Association, construction sites, heavy manufacturing plants and retail outlets, I've seen quite a bit.

So I ask, on behalf of the workers I have encountered, why are you stealing from us? You see, we're a major stakeholder but with only a minor voice. We're the ones who will get hurt at work using the power lift truck without anything more than a quick flip through some slides on the Internet in the boss's office. We're the ones who are going to be using the chemicals without proper training—my employer has a bottom line, and we're a liability, so they make me sign a sheet, after watching a video on WHMIS, saying that I've been trained. I don't really know what all those terms mean, but if I don't sign, I'm the one who will not get hours or have to revert to night crew—I hate that, as it destroys my family life—in order to earn my $388 clear for my 40 hours of work.

Welcome to my universe, my reality, my health and safety. We used to have a trainer come in from the Workers Health and Safety Centre to spend time with us and explain all the terms, but the boss said it took too long.

You've heard all the talk. Now I beg you to hear the voice of truth, the voice of the working world, the muffled voices of the countless workers in their broken English who have not been given a chance to speak out or to learn properly about health and safety because it takes too long.

Please don't disarm the one group that is our advocate, the one group that takes the time to explain, that allows us to ask questions and answer other questions as we participate in worksheets and role plays. You see, the

Workers Health and Safety Centre gives us working people a fighting chance, so that we can actually say for ourselves that we get it, we understand. They listen to our concerns and give us the opportunity for real health and safety learning.

How will another layer of bureaucracy, another hand at the wheel, another voice drowning out the struggling workers, help? You see, we all want the same thing—or do we?

I want to go home with all my limbs and muscles intact, my eyes and ears and lungs and kidneys working well, the same way as when I came to work. This organization has had how many years of practical training, how many thousands of participants and graduates, and how many worker instructors—all with an ear to the workers, since they know that it's the worker who faces the hazards every day. And with the employer caught up in running the business and making a go of it, somebody, thank God, is looking after the workers. Don't sell us out. We are different. The proof is in the pudding. Just ask a worker; they'll tell you. Don't settle for less, or you might just get less than you settled for.

My concerns: In health and safety, we teach that the farther you place a control from the source, the less effective it can be. You see, there's more room for error. Yet, this bill is creating another layer of control far removed from the workers.

Politicization of the training, with more power to the Minister of Labour, potentially removing the autonomy of the Workers Health and Safety Centre and handicapping the centre's unique ability in meeting the needs of the workers? Our achievements on behalf of workers would not have been possible if, over the years, governments of all stripes hadn't respected the autonomy of the Workers Health and Safety Centre, our ability to set our own priorities, to develop our own training and information content, and inquire into the questions and concerns raised by Ontario workers. As proposed, there is even no accountability to worker representatives on the prevention council.

Once again, it seems that Bill 160 is not about the problems of workers—the hazards, the threats of injury, the illnesses, the deaths—but about the problems of how senior government staff can obtain more power for themselves. Please protect the worker governance of the Workers Health and Safety Centre, giving them the needed authority over priorities, content, philosophy and approaches.

As the pendulum has swung and continues to move away from the workers, you run the risk of throwing the baby out with the bathwater. To a hardened group of devout legislators committed to creating change, the Workers Health and Safety Centre may seem as the bathwater—cloudy and murky, out of government's control—but we, the workers, are that baby that needs an ally, a training provider that hears our cry and responds accordingly.

Work can and must be made safer, but not by disarming the one training provider that represents and responds to the needs of us, the workers. That is our Workers Health and Safety Centre. Worker participation is critical for effective workplace health and safety programs. To truly participate, though, workers do need ready access to credible training and information.

From its inception, evidence before the original Ham commission demonstrated that employers and governments could not be trusted to provide this. Rather, worker self-education was the answer. This view was later supported by Professor Paul Weiler's review of the Ontario workmen's compensation system in the 1980s, when he called for a worker's voice within the system. By 1985, the then-Workers' Compensation Board determined that an Ontario Federation of Labour training project, first funded by Bill Davis's government, would become this voice. Later known as the Workers Health and Safety Centre, our funding, provided by the Workmen's Compensation Board, now the WSIB or the Workplace Safety and Insurance Board, grew with our success. Our interactive, action-oriented, worker-training-workers method is unique but, most importantly, has been proven to work.

In closing, please consider the one voice before you that speaks on behalf of the countless thousands who can't, simply a worker asking you to respect an old adage that says, "If it ain't broke, don't fix it"—and believe you me, the Workers Health and Safety Centre ain't broke. Please amend this bill to restrict the government's power over the Workers Health and Safety Centre to what it should be. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sinka. There's about a minute or so per side. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: First of all, I want to say that we've heard from a number of other individuals today and previously on this issue. I'd like to say that we value the great work that the health and safety centres do for workers and employers. I appreciate the unique role these associations play in occupational health and safety.

Tony Dean talked about an integrated approach in tackling this issue. Do you have any comment on that?

Mr. Stephen Sinka: But integrated at what risk? Because, again, there are unique applications, unique concerns.

My concern is that he who pays the piper calls the tune, and if we have ultimate control removed to the extent where it now dictates the content and the method and how we're going to—"You're not going to train on WHMIS; you're not going to spend six hours on it"; it disarms our ability to address the issues that we face as workers. I've seen the results of that. When the push is for "You've got to get it done in 45 minutes"—how in the world do you do WHMIS training in 45 minutes? It does an injustice. I think, in fairness, this integration—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. To the PC caucus. Mr. Arnott.

Mr. Ted Arnott: Thank you very much for your presentation. I gather you work at the Workers Health and Safety Centre.

Mr. Stephen Sinka: Actually, I work for Loblaws. I'm an instructor-trainer, and I've had the privilege of going out and doing Workers Health and Safety Centre courses through my local United Food and Commercial Workers, as well as in other places across Ontario.

Mr. Ted Arnott: So you have a great deal of expertise in this area, obviously, and a great, sincere passion for these issues.

Mr. Stephen Sinka: Yes.

Mr. Ted Arnott: Thank you very much for your presentation. It's well appreciated.

Mr. Stephen Sinka: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: I'm going to ask you some real questions, okay?

Mr. Stephen Sinka: Sure.

Mr. Paul Miller: Number 1: Do you feel it would be good to provide all members of the joint health and safety committees and all health and safety representatives with the right to standardize certification training with annual reviews from a training organization of their choice?

Mr. Stephen Sinka: So each committee individually decides who they would—

Mr. Paul Miller: They choose. Whether it's the workers centre or anywhere else, they choose. Do you believe that's a good thing? I don't see it in Bill 160.

Mr. Stephen Sinka: No, I don't see it either. On first glance, I don't see the shortcomings of that.

Mr. Paul Miller: Okay. Do you believe that they should provide all new employees, supervisors and managers with mandatory, relevant, meaningful health and safety training necessary for them to fulfill the duties of their positions safely and competently?

Mr. Stephen Sinka: Absolutely. In fact, it's not within my realm to recommend, but those 40 hours of community work in high school—replace them with health and safety training. It would do us a world of good. It would pay off millions more. That's the ultimate community service, where we serve our community by working in a healthy and safe atmosphere, knowing our rights and our responsibilities, and not just pushing it off to somebody else.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Sinka, for your deputation.

I'd just remind committee members of the relevant dates that are here: Friday, April 29, 3 p.m. is the deadline for filing amendments, and clause-by-clause consideration will be on Tuesday, May 3.

If there's no further business before the committee, the committee is adjourned.

The committee adjourned at 1532.

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Deuxième session, 39e législature

Official Report of Debates (Hansard)

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Journal des débats (Hansard)

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Tuesday 3 May 2011

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mardi 3 mai 2011

The committee met at 1608 in committee room 1.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 2011

LOI DE 2011 MODIFIANT DES LOIS EN CE QUI CONCERNE LA SANTÉ ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters. / Projet de loi 160, Loi modifiant la Loi sur la santé et la sécurité au travail et la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail en ce qui concerne la santé et la sécurité au travail et d'autres questions.

The Chair (Mr. Shafiq Qaadri): Colleagues, welcome to clause-by-clause consideration of Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters.

If there is no business before the committee, then we'll proceed to the presentation of amendments, beginning with amendment 1 from the government. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I'll read the motion into the record.

I move that section 1 of the bill be amended by adding the following subsection:

"(2.1) Subsection 1(1) of the act is amended by adding the following definition:

"'"chief prevention officer" means the chief prevention officer appointed under subsection 22.3(1); ("directeur général de la prévention")'"

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti. Merci beaucoup pour votre présentation. If there are any comments, I'll invite them.

I should also perhaps inform committee members that I don't think we have to be absolutely that precise on the punctuation. We can kind of follow along, just like close quote, open quote, open bracket, semicolon, hash mark, umlaut. I think we can handle it on our side.

Mr. Paul Miller: Could I have a recorded vote, please, on each one.

The Chair (Mr. Shafiq Qaadri): Sure, that's fine.

Any comments on motion 1? None? We'll proceed to the vote, then.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller.

The Chair (Mr. Shafiq Qaadri): None opposed. Government motion 1 is carried.

Shall section 1, as amended, carry? Carried.

Section 2, NDP motion 2: Mr. Miller. And again, a recorded vote on all amendments, as Mr. Miller has asked.

Mr. Paul Miller: I move that subsection 4.1(2) of the Occupational Health and Safety Act, as set out in section 2 of the bill, be amended by adding the following paragraph:

"0.1 To promote health and safety in workplaces and prevent and reduce the occurrence of workplace injuries and disease."

The Chair (Mr. Shafiq Qaadri): Comments before the floor? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government can't support this motion. While we understand the intent of the motion, the government cannot support it. Government motion number 3 achieves the intent of this motion, and the proposed language is consistent with other references in the bill.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote, then.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin.

The Chair (Mr. Shafiq Qaadri): NDP motion 2 defeated.

Government motion 3: Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I move that subsection 4.1(2) of the Occupational Health and Safety Act, as set out in section 2 of the bill, be amended by adding the following paragraph:

"0.1 To promote occupational health and safety and to promote the prevention of workplace injuries and occupational diseases."

The Chair (Mr. Shafiq Qaadri): The Chair feels like commending you on that particular motion. Are there any comments? None? We'll proceed to the vote, then.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Government motion 3 carries.

Government motion 4: Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I move that subsection 4.1(2) of the Occupational Health and Safety Act, as set out in section 2 of the bill, be amended by adding the following paragraph:

"0.1 To promote occupational health and safety and to promote the prevention of workplace injuries and occupational diseases."

The Chair (Mr. Shafiq Qaadri): Thank you.

Mr. Lorenzo Berardinetti: One moment. I just need to check. There's a technical point here, if you will just allow me the indulgence to speak with the staff.

Interjections.

Mr. Lorenzo Berardinetti: Mr. Chair, with your indulgence—there is a drafting error in the lead-in wording in bold type, so we're actually going to be voting against this motion.

The Clerk of the Committee (Mr. Trevor Day): Number 3 was actually passed, which is, in essence, identical to this one, drafting aside. I believe the Chair will rule it out of order. With something like this, you can just choose not to move it.

Mr. Lorenzo Berardinetti: All right, thank you.

The Chair (Mr. Shafiq Qaadri): So it's just withdrawn—we all understand that—government motion 4. We'll proceed now to NDP motion 5.

Mr. Paul Miller: I move that section 4.1 of the Occupational Health and Safety Act, as set out in section 2 of the bill, be amended by adding the following subsection:

"Duty re notice

"(3) Despite any power or duty under subsection (2), the minister has the additional duty to give the prevention council and the chief prevention officer at least 30 days notice, together with reasons, any time the minister intends to,

"(a) make or change a delegation of powers or duties to the chief prevention officer; or

"(b) make a significant change to the prevention system established by virtue of part II.1, including changes to funding and delivery of services for the prevention of workplace injuries and occupational diseases."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments on NDP motion 5? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: With the greatest of respect, we cannot support this motion. The subsequent government motions that address these concerns—that the minister would be required to consult the CPO on any significant change that the minister proposes to make in the funding and delivery of services for the prevention of workplace injuries and illnesses. So, for that reason, we will not be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. If there are no comments—Mr. Hillier?

Mr. Randy Hillier: You're saying that you've got this covered in subsequent motions?

Mr. Lorenzo Berardinetti: Correct.

Mr. Randy Hillier: Do you know which ones? Do you have those offhand?

Mr. Lorenzo Berardinetti: I don't know right now but as we move along, they'll come forward. You have my word.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 5?

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): I presume that NDP motion 5 is defeated.

NDP motion 6.

Mr. Paul Miller: I move that section 4.1 of the Occupational Health and Safety Act, as set out in section 2 of the bill, be amended by adding the following subsection:

"Consultation

"(3) The minister shall ensure that all recommendations by the prevention council and the chief prevention officer are taken into consideration when exercising the minister's powers and duties."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government cannot support this motion. The government understands the intent of this motion but considers it too narrow to support.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 6?

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 7.

Mr. Paul Miller: I move that section 4.1 of the Occupational Health and Safety Act, as set out in section 2 of the bill, be amended by adding the following subsection:

"Purpose

"(3) The minister's powers and duties shall be exercised with the purpose of preventing and reducing the occurrence of workplace injuries and disease."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Unfortunately, we cannot support this motion. Government motion 3 already supports the intent of this motion. For that reason, we'll not be supporting it.

The Chair (Mr. Shafiq Qaadri): Fair enough. Those in favour of NDP motion 7?

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 8.

Mr. Lorenzo Berardinetti: I move that section 4.1 of the Occupational Health and Safety Act, as set out in section 2 of the bill, be amended by adding the following subsection:

"Duty to consider

"(3) In administering this act, the minister shall consider advice that is provided to the minister under this act."

The Chair (Mr. Shafiq Qaadri): Comments? We'll vote. Those in favour of government motion 8?

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. Government motion 8 carries.

Shall section 2, as amended, carry? Carried.

Also, just to make our honourable clerk's job somewhat more fluid, if you do have the intention of voting, I would invite you to vote enthusiastically so that we can actually verify that you're voting.

Mr. Ted McMeekin: All right!

Mr. Randy Hillier: That's more like it.

The Chair (Mr. Shafiq Qaadri): Thank you. So it doesn't have to be detected.

In any case, we'll now proceed to NDP notice of motion 9—

Interjection.

The Chair (Mr. Shafiq Qaadri): Fine. Apparently, we are just to debate these as opposed to, apparently, vote on them?

The Clerk of the Committee (Mr. Trevor Day): The question is actually on the section itself. These two notices are to alert members of their intention to vote against this section, but the question itself that the Chair will be putting is on section 3, as in, "Shall section 3 carry?" That's what the members have an opportunity now to debate.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

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Mr. Paul Miller: I've been notified by the parliamentary assistant that they would support our notice to move this motion to delete section 3 of the bill. He told me that they would be supporting that. I guess I should read it, Mr. Chairman? That's okay? Are we voting on this?

The Chair (Mr. Shafiq Qaadri): We'll be voting on section 3, apparently, so I guess there's no need to actually read that into the record.

Interjections.

The Clerk of the Committee (Mr. Trevor Day): Right now, the question the Chair will be putting is, "Shall section 3 carry?" If you'd like it removed, you vote in the negative.

Mr. Paul Miller: Okay.

The Chair (Mr. Shafiq Qaadri): Any further comments on that before we proceed to the vote on section 3? Does everyone understand what's at stake here?

Mr. Lorenzo Berardinetti: The government will be voting against section 3.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the recorded vote.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Section 3 is lost.

Section 4, NDP motion 11.

Mr. Paul Miller: I move that subsection 7.1(1) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will be supporting this motion. The motion is identical to government motion number 12.

The Chair (Mr. Shafiq Qaadri): I'll proceed to the vote.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 11 carries. I'll assume that government motion 12 is withdrawn, as it is a duplicate.

We'll proceed now to NDP motion 13.

Mr. Paul Miller: I move that subsection 7.1(2) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Unfortunately, the government will not be supporting this motion. The government supports the intent of this motion but considers it too narrow. The government has a motion that would go beyond the scope and intent of the present motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments?

Mr. Paul Miller: Mr. Chair, I'll withdraw it. I'm okay with the government motion.

The Chair (Mr. Shafiq Qaadri): That's truly a spirit of collegiality, Mr. Miller. It's a new era. We'll move forward to government motion 14.

Mr. Lorenzo Berardinetti: I move that subsection 7.1(2) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be struck out and the following substituted:

"Approval—training program

"(2) The chief prevention officer may approve a training program that is established before or after this subsection comes into force if the training program meets the standards established under subsection (1)."

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed, then, to the vote.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. Government motion 14 is carried.

NDP motion 15. Mr. Miller.

Mr. Paul Miller: I move that subsection 7.2(1) of the Occupational Health and Safely Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

The Chair (Mr. Shafiq Qaadri): Thank you. Comments?

Mr. Lorenzo Berardinetti: The government will be supporting this motion. This motion is identical to government motion number 16.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 15 is carried.

Government motion 16 I'll take as withdrawn, as it is a duplicate.

NDP motion 17. Mr. Miller.

Mr. Paul Miller: I move that subsection 7.2(2) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

Mr. Lorenzo Berardinetti: The government will be supporting this motion. This motion is identical to government motion number 19.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 17 is carried.

NDP motion 18.

Mr. Paul Miller: I move that subsection 7.2(2) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "may approve a person who" and substituting "shall, in consultation with the prevention council, approve an organization that".

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Lorenzo Berardinetti: The government does not support this motion, and the government will be opposing it. It would not be appropriate to consult the prevention council, which is a multi-stakeholder advisory body, on such day-to-day administrative matters.

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 18 is defeated.

Government motion 19 is a duplicate.

Mr. Lorenzo Berardinetti: We're going to withdraw this motion.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Berardinetti.

NDP motion 20.

Mr. Paul Miller: I move that subsection 7.3(1) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will be supporting this motion. This motion is identical to government motion number 21.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Any opposed? None. NDP motion 20 carries.

Government motion 21 is withdrawn.

NDP motion 22. Mr. Miller.

Mr. Paul Miller: I move that subsection 7.3(2) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

Mr. Lorenzo Berardinetti: The government will be supporting this motion. This motion is identical to the next government motion.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 22 carries.

Government motion 23 is withdrawn.

NDP motion 24. Mr. Miller.

Mr. Paul Miller: I move that subsection 7.4(1) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

Mr. Lorenzo Berardinetti: The government will be supporting this motion. This motion is identical to the next government motion.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 24 carries.

Government motion 25 is a duplicate.

NDP motion 26.

Mr. Paul Miller: I move that subsection 7.4(2) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting"—once again—"chief prevention officer".

Mr. Lorenzo Berardinetti: The government will be supporting this motion. This motion is identical to the next government motion.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 26 carries.

Government motion 27 is withdrawn.

NDP motion 28. Mr. Miller.

Mr. Paul Miller: I move that subsection 7.4(3) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" wherever it appears and substituting in each case "chief prevention officer".

Mr. Lorenzo Berardinetti: The government will be supporting this motion, because it is identical to the following government motion.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 28 carries.

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Government motion 29 is withdrawn. NDP motion 30.

Mr. Paul Miller: I move that subsection 7.5(1) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will be supporting this motion. It is identical to the next government motion.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 30?

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 30 carries.

Government motion 31 is withdrawn. NDP motion 32: Mr. Miller.

Mr. Paul Miller: I move that subsection 7.5(2) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 32? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. While the government agrees with the intent of this motion, we will not support it in order to move motion 33, which accomplishes the same change to the substance of subsection 7.5(2) but, because it is worded slightly differently, allows for a correction to

be made to the French text of the provision at the same time.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote.

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin.

The Chair (Mr. Shafiq Qaadri): NDP motion 32 is defeated.

Government motion 33.

Mr. Lorenzo Berardinetti: I move that subsection 7.5(2) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "The minister may require an approved training provider" and substituting "The chief prevention officer may require an approved training provider".

The Chair (Mr. Shafiq Qaadri): Period.

Mr. Lorenzo Berardinetti: Period. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Those in favour of government motion 33?

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. Government motion 33 carries.

NDP motion 34.

Mr. Paul Miller: I move that subsection 7.5(3) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Chair, the government will be supporting this motion. This motion is identical to a subsequent government motion.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 34?

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 34 carries.

Government motion 35 is withdrawn. NDP motion 36.

Mr. Paul Miller: I move that subsection 7.5(4) of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Chair, the government will be supporting this motion. It is identical to a subsequent government motion.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Carried.

Government motion 37 is withdrawn. NDP motion 38.

Mr. Paul Miller: I move that section 7.5 of the Occupational Health and Safety Act, as set out in section 4 of the bill, be amended by adding the following subsection:

"Council to be advised

"(5) The chief prevention officer shall advise the council, together with reasons, of any approvals under section 7.1 or 7.2 or any amendments to or revocations of an approval under section 7.4 within 30 days of the date of the approval, amendment or revocation."

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. It would not be appropriate for the prevention council, a multi-stakeholder advisory body, to be engaged in such day-to-day administrative matters.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 38 is defeated.

Shall section 4, as amended, carry? Thank you. Section 4, as amended, has carried. I hope none of you suffered from any repetitive strain injury on that one.

Section 5, NDP motion 39.

Mr. Paul Miller: I move that subsection 7.6(1) of the Occupational Health and Safety Act, as set out in section 5 of the bill, be amended by striking out "minister" in the portion before clause (a) and substituting "chief prevention officer".

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will be supporting this motion. It is identical to a subsequent government motion.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 39?

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 39 carries.

Government motion 40 is withdrawn.

Shall section 5, as amended, carry? Carried.

Government motion 41.

Mr. Lorenzo Berardinetti: I move that the bill be amended by adding the following section:

"5.1 The act is amended by adding the following section:

"'Delegation

"'7.7 The chief prevention officer may in writing delegate from time to time his or her powers or duties under subsections 7.1(2) and 7.2(2), sections 7.4 and 7.5 and clause 7.6(1)(b) to any employee in the ministry, subject to such limitations, restrictions, conditions and requirements as the chief prevention officer may set out in the delegation.'"

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Randy Hillier: We seem to be getting farther and farther away now from political oversight with this particular motion. Although I agree with the chief prevention officer being delegated certain powers, is the government not concerned that this delegation of powers is moving too far down the line and away from ministerial oversight?

Mr. Lorenzo Berardinetti: The government has had an opportunity to speak with several of the stakeholders who came here to committee. We've listened to them and met with them, and I think we've reached an agreement on how these functions are going to operate.

The Chair (Mr. Shafiq Qaadri): The honourable Ted McMeekin.

Mr. Ted McMeekin: The government is kind of caught here. We had legislation that we proposed. We always have this debate, Mr. Hillier. Some people want to see everything vested in the government so they can be held politically accountable. But I think the thrust of most of the comments we had here was that the stakeholders didn't want to see that happen. So what we've done, in the traditional fashion of our party, is try to forge some kind of balanced approach that would meet the legitimate needs being expressed, and that finds expression in the motion.

Mr. Randy Hillier: I just find that "may … delegate from time to time"—there are not many limitations on that delegation, on whom it may get delegated downwards to.

Mr. Ted McMeekin: We appreciate your point. We're trying to respond to the stakeholders as best we can.

The Chair (Mr. Shafiq Qaadri): Any further comments? Debates? Rebuttals?

This is, again, with reference to government motion 41. The question is, shall the new section, 5.1, carry? Carried.

Section 6: We've received no amendments to date, so we can proceed to the vote. Shall section 6 carry? Carried.

We'll proceed to section 7, NDP motion 42.

Mr. Paul Miller: I move that subsection 9(19.1) of the Occupational Health and Safety Act, as set out in subsection 7(1) of the bill, be struck out and the following substituted:

"Powers of co-chairs

"(19.1) Where there has been no agreement, either co-chair of the committee has the power to make written recommendations to the constructor or employer."

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti?

Mr. Lorenzo Berardinetti: We will not be supporting this motion. Encouraging debate and discussion of workplace health and safety issues is at the heart of a well-functioning joint health and safety committee. In order to maintain a strong internal responsibility system, the committee must be able to work together to achieve consensus so they can speak with one voice, labour and employer representatives together, on the health and safety issues in their workplace.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote. Those in favour of NDP motion 42?

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 43.

Mr. Paul Miller: I move that subsection 9(19.2) of the Occupational Health and Safety Act, as set out in subsection 7(1) of the bill, be struck out.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 43? Mr. Berardinetti?

Mr. Lorenzo Berardinetti: On section 43 of the bill: The government will be supporting this motion. The government supports this motion, which is identical to a motion the government filed, that would remove the requirements for supporting information, making it easier for committee co-chairs to make the employer aware of health and safety issues discussed by the joint committee and possible resolutions to those issues.

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The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote on NDP motion 43.

Ayes

Berardinetti, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 43 is carried.

Government motion 44.

Mr. Lorenzo Berardinetti: It's withdrawn. I think we're going to withdraw it.

The Chair (Mr. Shafiq Qaadri): Withdrawn.

Government motion 45.

Mr. Lorenzo Berardinetti: We're not going to move this motion.

The Chair (Mr. Shafiq Qaadri): Pardon me?

Mr. Lorenzo Berardinetti: The government will not be moving this motion.

The Chair (Mr. Shafiq Qaadri): It's withdrawn.

Shall section 7, as amended, carry? Carried.

We'll proceed now to section 8. PC motion 46: Mr. Hillier.

Mr. Randy Hillier: I move that subsection 22.2(2) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be struck out and the following substituted:

"Composition

"(2) The council shall be composed of such members as the minister may appoint, and shall include representatives from each of the following groups:

"1. Trade unions and provincial labour organizations.

"2. Employers.

"3. Non-unionized workers.

"4. The Workplace Safety and Insurance Board and persons with occupational health and safety expertise.

"Same

"(2.1) In appointing members of the council, the minister shall ensure that,

"(a) an equal number of members are appointed to represent the groups described in paragraphs 1, 2 and 3 of subsection (2); and

"(b) the group described in paragraph 4 of subsection (2) is represented by not more than one quarter of the members of the council."

I think it should be self-evident what we're trying to achieve here with some balance.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. The government does not support as a requirement that an equal number of members are appointed to represent (1) trade unions and provincial labour organizations, (2) employers and (3) non-unionized workers. It does not reflect the stakeholder advice on the composition of the council.

The Chair (Mr. Shafiq Qaadri): Further comments? None. We'll proceed to the vote.

Ayes

Hillier.

Nays

Berardinetti, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 47.

Mr. Lorenzo Berardinetti: I move that subsection 22.2(2) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be struck out and the following substituted:

"Composition

"(2) The council shall be composed of such members as the minister may appoint, and shall include representatives from each of the following groups:

"1. Trade unions and provincial labour organizations.

"2. Employers.

"3. Non-unionized workers, the Workplace Safety and Insurance Board and persons with occupational health and safety expertise.

"Same

"(2.1) In appointing members of the council, the minister shall ensure that,

"(a) an equal number of members are appointed to represent the groups described in paragraphs 1 and 2 of subsection (2); and

"(b) the group described in paragraph 3 of subsection (2) is represented by not more than one third of the members of the council."

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Randy Hillier: I'm just really concerned here that the government is failing to recognize the non-union sector of the workplace in lumping those in with others and not giving them the same regard, the same status, as the unionized sector. I'm sure that government members know that unionized workers represent a much smaller portion of the workplace than non-union workers. I'd like to just understand and hear from the government sector how they square this argument that the largest sector of our workplace—non-union—gets less representation on this council.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti?

Mr. Lorenzo Berardinetti: This motion would strengthen the council's membership structure, ensure the council has broad-based representation and ensure that a link between the WSIB, the council and the CPO is maintained.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Paul Miller: Section 2, composition: It does say "non-unionized workers" in the composition. Number 3: Could I have an explanation for that? Mr. Hillier said there was nothing in there for non-unionized.

Mr. Lorenzo Berardinetti: We heard concerns from stakeholders about the need to balance employer and labour representation on the council and to be more specific with respect to the overall composition. This motion would ensure that there is fair balance between members who are representing employers and labour on the prevention council.

The proposed motion would ensure equal numbers of representatives of employers and trade union provincial labour bodies, that the number of other representatives can be no more than one third of the total membership of the council and, further, that representatives of non-

unionized workers and the WSIB must be included in the "other" category.

Mr. Paul Miller: So they are included?

Mr. Lorenzo Berardinetti: Yes.

Mr. Paul Miller: Okay. That's all I wanted to know.

Mr. Randy Hillier: Well, maybe. Possibly.

Mr. Paul Miller: Maybe.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to the vote. Government motion 47.

Ayes

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

Nays

Hillier, Paul Miller.

The Chair (Mr. Shafiq Qaadri): Government motion 47 carries.

NDP motion 48.

Mr. Paul Miller: I move that section 22.2 of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding the following subsection:

"Same

"(2.1) The following rules apply to the composition of the council:

"1. There shall be equal numbers of members representing trade unions and employers.

"2. No more than one third of members may be persons who do not represent trade unions or employers."

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: We will not be supporting this motion, as we already brought forward the previous government motion, which supports the objective of balanced representation on the council.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of NDP motion 48?

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 48 defeated.

NDP motion 49?

Mr. Paul Miller: I move that subsection 22.2(6) of the Occupational Health and Safety Act, as set out in subsection 22(1) of the bill, be amended by adding "and recommendations" after "provide advice" wherever that expression occurs.

The reason for this—I'll give you an explanation—is to make it clearer that you provide not only advice, but also recommendations.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. The addition of "and recommendations" is redundant, given that use of the word "advice" is broad enough to include recommendations.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: I disagree with the government. I don't think that it spells it out very clearly at all, and I think that this should be included. If you want to make it an open concept, an open venue, you want to have advice and recommendations go hand in hand.

Advice can change from paragraph to paragraph, and recommendations can change from paragraph to paragraph, so why wouldn't the two go hand in hand? It's only natural. Why would the government be opposed to adding the word "recommendations"? That's what a committee's all about.

I'm a little foggy about why you would oppose this. It doesn't make sense at all. The word "recommendations" is not a scary word.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Lorenzo Berardinetti: This motion would specify that the prevention council's functions would include providing advice and recommendations. The advice provision is also strengthened through the addition of a new duty on the minister to consider any advice given to him under the act that includes the CPO's advice. We feel that that's sufficient.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? If not, we'll proceed with the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 49 defeated.

NDP motion 50.

Mr. Paul Miller: I move that subsection 22.2(6) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding the following clause:

"(0.a) establish competency based stakeholder subcommittees or working groups for specific initiatives;"

Basically, what we're saying here is we want to spell it out in the legislation. We don't want a grey area. This is a simple housekeeping amendment, and I don't see any reason why the government shouldn't support this.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting the motion. The government's intent is that the prevention council provides advice. If the council wishes to seek other expertise to help inform that advice, nothing in the bill precludes them from doing that.

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The Chair (Mr. Shafiq Qaadri): Thank you. Comments on NDP motion 50? Seeing none, we'll proceed to the vote.

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 51.

Mr. Paul Miller: I move that subsection 22.2(6) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding the following clause:

"(b.1) provide advice and recommendations to the chief prevention officer in the establishment of training standards under sections 7.1, 7.2, 7.3 and 7.6, in the setting of standards for the designation of entities under section 22.4 and the authorization of grants under section 22.5;"

The explanation for this is that we want to make the role of the council as clear as a bell. We don't want any grey areas.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 51? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion and I'll tell you why. With respect to developing standards for training programs, the Ministry of Labour is committed to consulting with stakeholders in the development of such standards and has already publicly committed to do so, and would also engage designated entities with respect to standards that would apply to them. There is nothing in this bill that would prevent the minister or the CPO from seeking advice on the council on these matters.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: Well, with all due respect, I said "standards for the designation of entities." Entities are part of the whole, so any entities would be involved in the designation. Why would you put this down when you're actually contradicting yourself? I don't understand your explanation at all.

Mr. Lorenzo Berardinetti: Okay, I'll make it very brief, then. The government doesn't support this motion that would add new functions to the prevention council.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 51 defeated.

NDP motion 52.

Mr. Paul Miller: I move that clause 22.2(6)(b) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by striking out "and" after subclause (ii) and by adding the following subclause:

"(ii.i) on key performance indicators for measuring improvements in health and safety, and"

The reason for this, once again, is to make the role of the council clearer.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. Bill 160 already achieves the intent of this motion by providing the prevention council with an advisory role with respect to the CPO's development of the provincial occupational health and safety strategy. The occupational health and safety strategy will include a statement of occupational health and safety goals as well as key performance indicators for measuring the system's health and safety goals.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 53.

Mr. Paul Miller: I move that subsection 22.2(8) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be struck out and the following substituted:

"Remuneration and expenses

"(8) Any member of the council who is not a public servant within the meaning of the Public Service of Ontario Act, 2006 shall receive such remuneration and benefits and reimbursement for such reasonable expenses as may be determined by the Lieutenant Governor in Council."

The reason for this is that it makes the expenditures and benefits clearer of all council members.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. It would arguably have the same effect as the existing provision in the bill respecting remuneration and expenses of the prevention council.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: I don't understand the position of the government on this one. What the government touts every week in that House is accountability, and it appears that you don't want accountability, so I'm a little confused.

Mr. Lorenzo Berardinetti: The language of the provision currently in the bill mirrors the language in the Occupational Health and Safety Act with respect to the remuneration of section 21 committees.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote, then, on NDP motion 53.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 54.

Mr. Paul Miller: I move that section 22.2 of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding the following subsection:

"Meetings

"(9) The council shall meet at the call of the chair and in no case shall more than two months elapse between meetings of the council."

This motion is to clarify set schedules of meetings; there will be set scheduled meetings in a year. The way it's in the bill right now, it's kind of left up in the air. I think that for optimal effect you want to have scheduled meetings that are exposed to the public as well as the members of the groups that are meeting. I think it's basically to make it up front and that there is no worry about in-camera meetings or unnecessary meetings that the public should have attended.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government does not support this motion, because such determinations would be best left to the discretion of the council and its members once it is established.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to the vote, if no one else has comments.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 55.

Mr. Paul Miller: I move that subsection 22.3(1) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, [be amended] by striking out "to" in the portion before clause (a) and substituting "on the advice of the prevention council under clause 22.2(6)(a), to"

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. It is an addition of a provision that already exists, and it is redundant.

One of the functions of the prevention council outlined in Bill 160 is that the council provide advice on the appointment of a CPO. You can see that in clause 22.2(6)(a).

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 56.

Mr. Paul Miller: I move that clause 22.3(1)(a) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding "on the prevention of workplace injuries and occupational diseases" at the end.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. It would have the effect of limiting the scope of the provincial occupational health and safety strategy to be developed by the chief prevention officer.

Mr. Paul Miller: Why would it limit the scope?

Mr. Lorenzo Berardinetti: Thank you for that question. The intent of the government regarding the development of such a strategy is to create a single provincial strategy that would align all the elements of the health and safety system, including prevention, policy and enforcement priorities, as a whole. Furthermore, we heard from stakeholders who had concerns with respect to the duplication of services within the current system. The establishment of a single strategy will result in better alignment of system activities. The CPO would develop

the occupational health and safety strategy collaboratively.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to the vote.

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 57.

Mr. Paul Miller: I move that subsection 22.3(1) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding the following clause:

"(a.1) lead and manage a provincial system to prevent workplace injuries and occupational diseases;"

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. While we understand the intent of the motion, which is to establish the CPO as a single accountable authority for the prevention system, the government does not support that. We have heard from stakeholders about the need to make it clear that the CPO has a broad role with respect to prevention. The government is bringing forward a number of motions that would enhance the role of the CPO, and those motions, as a whole, would achieve the intent of this motion.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: With all due respect, I think it lacks clarity. Once again, you've left it up in the air under the CPO. I don't see any involvement with any of the user groups or the safety and health organizations. I think this is a direction that could come from the ministry right to the CPO. He could move ahead on this without consulting the other agencies, and I think that's a bad move.

1700

Mr. Lorenzo Berardinetti: Mr. Chair, just to respond, we do have motions coming up that, in my view, will address those concerns.

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Motion 57 is defeated.

NDP motion 58.

Mr. Paul Miller: I move that clause 22.3(1)(c) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding "assigned by this act or" after "power or duty".

This simply is confirming the role of the chief prevention officer without interference from the minister. That's all this is doing.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: We want to go a bit further. There's a government motion that we brought forward that achieves the intent of this motion and, in addition, would further amend this section to explicitly detail the powers and duties assigned to the CPO.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Paul Miller: Where is that motion, and what section is it in? You say it's coming forward.

Mr. Lorenzo Berardinetti: Mr. Chair, it's in more than one of the motions coming up. With the greatest respect, we will be debating those in a few minutes, hopefully.

Mr. Paul Miller: Well, Mr. Chair, I don't want to miss the opportunity to vote on this if I don't know where this is being addressed.

Mr. Lorenzo Berardinetti: One moment, Mr. Chair. I'll look for those sections.

If you look at motion 61, Mr. Miller, we do provide a number of changes—(f), (g), (h), (i) and (j), new clauses that are being added—and it assigns five functions to the role of CPO.

Mr. Paul Miller: Okay, we'll deal with it then. That's fine.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 58 is defeated.

NDP motion 59.

Mr. Paul Miller: I move that clause 22.3(1)(d) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding "and recommendations" after "advice".

Once again, this is to clarify the ability to make recommendations and advice.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Mr. Chair, the government will not be supporting this motion, as the addition of "and recommendations" is redundant, given that use of the word "advice" is broad enough to include recommendations.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Miller.

Mr. Paul Miller: With all due respect to the member, why would we have two different words if it means the

same thing? Recommendations and advice can be different depending on the level of severity or the approach you take. Paragraphs change in any bill, and I'm wondering why you consider advice and recommendations the same thing.

Mr. Lorenzo Berardinetti: Mr. Chair, the advice provision is also strengthened through the addition of a new duty on the minister to consider any advice given to him under the act. This includes the CPO's advice. You'll recall that the committee has already considered a motion that outlines this new ministerial duty. That was way back in motion 8.

Mr. Paul Miller: Why would the government be afraid of the word "recommendation"? Why is it necessary to use just "advice"? Advice is not a strong situation on any committee. That's what committees are all about: to make recommendations on the advice of user groups or any other entities that may be involved in the process. I'm not quite understanding why you're afraid of the word "recommendation."

Mr. Lorenzo Berardinetti: Mr. Chair, with the greatest respect, we have a difference of opinion. We think that "advice" encompasses recommendations.

The Chair (Mr. Shafiq Qaadri): Any further comments or queries on this? We'll proceed, then, to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 59 is defeated.

NDP motion 60.

Mr. Paul Miller: I move that clause 22.3(1)(e) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be struck out.

Once again, this is to clarify independent decisions made by the chief prevention officer—to clarify.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. We understand the intent of the motion, along with subsequent opposition motions: basically to ensure consultation with the prevention council when significant changes to the funding and delivery of prevention services are being contemplated.

The government is proposing an approach which differs in its substance from this proposed approach to ensure that the prevention council is consulted on significant proposed changes to the prevention system. The government will explain the approach in more detail when we deal with those proposed amendments to the bill.

The Chair (Mr. Shafiq Qaadri): Comments? No comments. We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin.

The Chair (Mr. Shafiq Qaadri): NDP motion 60 is defeated.

We are to proceed to government motion 61, but for its life it requires the enabling of government motion 79, so we'll proceed to 79.

Mr. Miller, you're aware of what has happened?

Mr. Paul Miller: We've gone to 79?

The Chair (Mr. Shafiq Qaadri): Yes. It enables 61.

Mr. Lorenzo Berardinetti: I move that subsection 8(2) of the bill be amended by adding the following section to the Occupational Health and Safety Act:

"Compliance and monitoring of designated entities

"22.5.1(1) The chief prevention officer shall monitor the operation of designated entities and,

"(a) may require a designated entity to provide such information, records or accounts as the chief prevention officer specifies; and

"(b) may make such inquiries and examinations as he or she considers necessary.

"Report to minister

"(2) The chief prevention officer shall report to the minister on the compliance of designated entities with the standards established under section 22.4 and with any directions given by the minister under section 22.5.

"Advice to minister

"(3) Where the chief prevention officer determines that any of the following have occurred, the chief prevention officer shall report that determination to the minister and may advise the minister with respect to any action the minister may decide to take under section 22.5:

"1. A designated entity has failed to operate in accordance with a standard established under section 22.4 that applies to it.

"2. A designated entity has failed to comply with a direction given by the minister under section 22.5 or a requirement of the chief prevention officer under clause (1)(a).

"3. A designated entity has failed to co-operate in an inquiry or examination conducted by the chief prevention officer under clause (1)(b)."

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Lorenzo Berardinetti: I could specifically say that this motion is proposing that we add a new section to the bill. The new section addresses stakeholder concerns and the need for the CPO to have a more explicitly prominent role in the prevention system.

The Chair (Mr. Shafiq Qaadri): Any further comments on government motion 79? Seeing none, I'll proceed to the vote.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller.

The Chair (Mr. Shafiq Qaadri): None opposed. Government motion 79 is carried.

We return now in sequence to government motion 61.

Mr. Lorenzo Berardinetti: I move that subsection 22.3(1) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by striking out "and" at the end of clause (d) and by adding the following clauses:

"(f) provide advice to the minister on the establishment of standards for designated entities under section 22.4;

"(g) exercise the powers and perform the duties with respect to training that are set out in sections 7.1 to 7.5;

"(h) establish requirements for the certification of persons for the purposes of this act and certify persons under section 7.6 who meet those requirements;

"(i) exercise the powers and perform the duties set out in section 22.5.1; and

"(j) exercise such other powers and perform such other duties as may be assigned to the chief prevention officer under this act."

1710

I can provide a quick explanation. Bill 160 currently assigns five functions to the role of the CPO, which are outlined in subsection 8(1) of the bill. This motion would expand the provision and add five more functions to the CPO.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote.

Ayes

Berardinetti, Dhillon, Johnson, Hillier, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. Carried.

NDP motion 62?

Mr. Paul Miller: I move that subsection 22.3(2) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be struck out and the following substituted:

"Changes, funding and delivery of services

"(2) If the chief prevention officer is considering a proposed change to the funding and delivery of services for the prevention of workplace injuries and occupational diseases,

"(a) the chief prevention officer shall report the proposed change to the prevention council; and

"(b) if the prevention council determines that the proposed change is significant, the chair of the council shall inform the chief prevention officer whether the council endorses the proposed change."

This ensures the role of the prevention council with any changes to funding or delivery of services in the prevention system.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. As previously mentioned, the government is proposing an approach which differs in its substance from this proposed approach to ensure that the prevention council is consulted on significant proposed changes to the prevention system. However, an issue with the approach contained in this motion is that if the CPO were to consider any change, irrespective of how minor that change is, it must be brought to the attention of the prevention council. This could have the effect of hampering decision-making and implementation of minor but necessary administrative changes.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 62? Those in favour of NDP motion 62?

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 62 is defeated.

NDP motion 63?

Mr. Paul Miller: I move that section 22.3 of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding the following subsection:

"Consultation

"(2.1) No change may be made to the funding and delivery of services for the prevention of workplace injuries and occupational diseases unless the chief prevention officer has determined whether the change is significant, and, in the case of a significant change, the minister has consulted with the chief prevention officer."

This is basically the same argument as the former motion.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Although we understand that argument, we do not support this motion, and I'll tell the committee why. As previously mentioned, the government is proposing an approach which differs in its substance from this proposed approach to ensure that the prevention council is consulted on significant proposed changes to the prevention system.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote.

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): It's defeated.

Government motion 64R.

Mr. Lorenzo Berardinetti: I move that subsection 22.3(2) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be struck out.

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 64R?

Mr. Paul Miller: Comments?

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Miller?

Mr. Paul Miller: Yes. We're not thrilled with this, but it's a start. So I guess we can live with it for now, but we want to see changes to it.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed; 64R carries.

Government motion 64R.1?

Mr. Lorenzo Berardinetti: I move that subsection 8(1) of the bill be amended by adding section 22.3.1 to the Occupational Health and Safety Act:

"Changes to funding and delivery of services

"If minister proposes change

"22.3.1(1) If the minister is considering a proposed change to the funding and delivery of services for the prevention of workplace injuries and occupational diseases, the minister shall determine whether the proposed change would be a significant change.

"If proposed change significant

"(2) If the minister determines that the proposed change is significant, the minister shall seek advice from the chief prevention officer with respect to the proposed change.

"If chief prevention officer advising on change

"(3) If the chief prevention officer is considering providing advice to the minister concerning a proposed change to the funding and delivery of services for the prevention of workplace injuries and occupational diseases, the chief prevention officer shall determine whether the proposed change would be a significant change.

"Prevention council endorsement

"(4) If the minister asks the chief prevention officer for advice under subsection (2) or if the chief prevention officer determines under subsection (3) that a proposed change would be a significant change, the chief prevention officer shall,

"(a) ask the chair of the prevention council to state whether the council endorses the proposed change; and

"(b) include that statement in the advice to the minister.

"Matters to consider in determining if change is significant

"(5) The minister and the chief prevention officer shall consider such matters as may be prescribed when determining whether a proposed change to the funding and delivery of services for the prevention of workplace injuries and occupational diseases would be a significant change.

"Regulation

"(6) On the recommendation of the minister, the Lieutenant Governor in Council may make regulations prescribing matters to be considered when determining whether a proposed change to the funding and delivery of services for the prevention of workplace injuries and occupational diseases would be a significant change.

"Same

"(7) Before recommending to the Lieutenant Governor in Council that a regulation be made under subsection (6), the minister shall seek the advice of the chief prevention office and require the chief prevention officer to seek the advice of the prevention council with respect to the matters to be prescribed."

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Miller.

Mr. Paul Miller: Once again, we're not exactly doing somersaults over this, but we can live with it for now.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 64.R.1?

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. Motion 64.R.1 carries.

Government motion 64.

Mr. Lorenzo Berardinetti: Mr. Chair, I think we're going to be withdrawing this motion.

The Chair (Mr. Shafiq Qaadri): Government motion 64 withdrawn.

NDP motion 65.

Mr. Paul Miller: I move that subsection 22.3(5) of the Occupational Health and Safety Act, as set out in subsection 8(1) of the bill, be amended by adding "and recommendations" after "advice".

Once again, I don't understand why the government is afraid of this word, but here we are again with "recommendations."

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Mr. Chair, we're on motion 65, right now, and the government will not be supporting this motion. We'll explain why: As previously mentioned, the addition of "and recommendations" is unnecessary, and the word "advice" is strong enough to capture making recommendations. In addition, the advice provisions of the bill are strengthened with the addition

of a corresponding duty of the minister to consider all advice given to him under the Occupational Health and Safety Act. This includes the advice of the prevention council.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: Mr. Chairman, I'd like the parliamentary assistant to explain to me the difference between "advice" and "recommendation." I think there's a big difference. Advice you can give someone, but a recommendation may take a different form. You can advise someone; they don't necessarily take your advice, but they take it under consideration. When you make a recommendation, that's in a form that's acceptable to everyone on that voting body. I don't understand what your problem is with the word "recommendations." Maybe you can further explain to me the difference between "advice" and "recommendation," in your opinion.

Mr. Lorenzo Berardinetti: Mr. Chair, I don't have a problem. I'm just reiterating what I said earlier. The advice provisions of the bill are strengthened with the addition of a corresponding duty of the minister to consider all advice given to him under the Occupational Health and Safety Act. This includes the advice of the prevention council.

Mr. Paul Miller: But with all due respect, the advice that is given forms the body of a recommendation. They go hand in hand. I still haven't had an explanation of why you don't like the word "recommendation." I'm still waiting for that.

Mr. Lorenzo Berardinetti: I've already provided my explanation, Mr. Chair—

Mr. Paul Miller: But that's not an explanation.

Mr. Lorenzo Berardinetti: If you want me to call up staff from the Ministry of Labour, we can do that—

Mr. Paul Miller: To give me the difference between advice and recommendation?

Mr. Lorenzo Berardinetti: Yes. I've explained my position already.

Mr. Paul Miller: Okay. I'd like that.

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The Chair (Mr. Shafiq Qaadri): That's fine. I would invite staff to enlighten us upon the difference between "advice" and "recommendations" and any other words of the English language that perhaps are troubling us today that they may choose.

Mr. Randy Hillier: How about if I recommend that we take the third party's advice?

Mr. Paul Miller: I like that advice.

Interjections.

The Chair (Mr. Shafiq Qaadri): Okay, go ahead.

Mr. Nick Robins: The term "advice" is used—

The Chair (Mr. Shafiq Qaadri): I'd invite you to state your name and your designation.

Mr. Nick Robins: Thank you, Chair. My name is Nick Robins, and I'm with the policy division of the Ministry of Labour.

The Chair (Mr. Shafiq Qaadri): Welcome. Proceed.

Mr. Nick Robins: The term "advice" is used throughout the OHSA, the Occupational Health and Safety Act. For instance, it's used in section 21 in relation to section 21 committees, which provide advice to the Minister of Labour on health and safety matters. In providing that advice, section 21 committees often will provide recommendations; thus, the view that the term "recommendations" is included in the term "advice."

Mr. Paul Miller: You concur with me that they go hand in hand.

Mr. Nick Robins: The term "recommendation" is included in "advice." Advice encompasses recommendations is what I'm saying.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Are there any further comments, linguistic or otherwise, on NDP motion 65? Fair enough. We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 65 is defeated.

Government motion 66.

Mr. Lorenzo Berardinetti: I move that section 22.4 of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be amended by adding the following subsection:

"Eligible for grant

"(0.1) An entity that is designated under this section is eligible for a grant from the Ministry."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments on government motion 66? We'll proceed to the vote.

Ayes

Berardinetti, Dhillon, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. Government motion 66 carries.

NDP motion 67.

Mr. Paul Miller: I move that subsection 22.4(1) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

"Designation by CPO

"22.4(1) The chief prevention officer may designate an entity as a safe workplace association or as an occupational health clinic or training centre specializing in occupational health and safety matters if the entity meets the standards established for it."

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government does not support this motion, and I'll explain why. The Minister of Labour is accountable to the Legislature with respect to the ministry's funding and oversight of the designated entities. This motion in front of us, along with other opposition motions, would have the effect of removing powers from the minister that relate to the financial accountability and oversight of the designated entities and placing them with the CPO. As the minister would ultimately be accountable for the designated entities, it is not appropriate to remove such powers and responsibilities from the minister.

Specifically in relation to this motion, under the bill, entities that are designated are eligible for grant or funding from the ministry. As such, these designation powers should remain with the minister. The government, however, has and is proposing a number of motions that would enhance the CPO's role, including with respect to designated entities.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Miller.

Mr. Paul Miller: I think the whole purpose of this is to eliminate any control by the ministry's office on who the work or the grants go to, so that they can eliminate any political interference. That's what this is about, this amendment.

By designating the chief prevention officer as the person who has the ability to recommend or advise or designate a safety organization to the minister, it actually is a buffer that eliminates any political interference by the ministry, or any favouritism or any questionable direction of the funding, so that the government stays out of trouble. I don't know why any government would vote against this. It doesn't make sense to me.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Just to respond: We heard from a number of the presenters over the past several days, and I think some of them made it clear that, at the end of the day, the buck has to stop with the minister, and the minister has to be responsible. Under this bill, entities that are designated as eligible for grants or funding from the ministry—that these designation powers should remain with the minister.

Mr. Paul Miller: Okay, my question to you is: How does that eliminate any political interference from a favourable situation, where the minister may favour some organization that somehow supports the governing body? If you eliminate that and have an impartial third party to handle that, like the chief prevention officer, it eliminates and takes flack away from the government. Why would you be opposed to having someone who's further removed from the designation of the minister's office to handle the direction and the recommendations of what safety and health organizations will be used or funded or grants given to?

To me, you're just complicating it by allowing it to stay where it is. This simply alleviates any problem that the government—whatever the government of the day is—may take from the public and private sectors, that you are allowing the chief prevention officer, who is not taking the marching orders from the ministry or the minister, to openly discuss, designate, advise or recommend organizations that he feels meet the criteria of the ministry and of the chief prevention officer. I don't understand why you'd be opposed to that.

Mr. Lorenzo Berardinetti: I can respond to that, Mr. Chair. I think earlier on we heard from a number of deputants, including Mr. Sid Ryan on behalf of the Ontario Federation of Labour. He was concerned that if you get a different minister—come election time, another minister from a different party gets into power, not yours and not ours, but let's say another party gets into power, and that minister decides to—

Mr. Paul Miller: That's exactly what I'm trying to say.

Mr. Lorenzo Berardinetti: Well, at the end of the day, we have always spoken about transparency and accountability. We want the minister to be responsible.

Mr. Paul Miller: Well, wait a minute. I'm getting a conflicting message here. One minute you're telling me that there could be a problem if different governments change; you just stated that.

Mr. Lorenzo Berardinetti: Yes.

Mr. Paul Miller: And that was the concern I brought forward to you. So you agree with me that there could be a problem if governments change, and there could be some political influence on that particular person. The chief prevention officer is not changing; he's there. It doesn't matter which government is in place. So I'm a little confused with your answer.

Mr. Lorenzo Berardinetti: Okay. Well, I'll explain it again. At the end of the day, the minister is accountable to the Legislature. You're saying that the minister should stay out of it. I think the government's made it clear that the minister should be accountable at the end of the day for any of those aspects regarding funding.

Mr. Paul Miller: With all due respect to the parliamentary assistant, I agree with you that the accountability issue is important, and that would eliminate the accountability of being forced onto the minister of the day, which you agreed that it could change from party to party, depending on who's in power. This is exactly what this is about: to eliminate any influence from the ministerial offices. And you agreed with me, and then you disagree with the motion. So I'm—

Mr. Lorenzo Berardinetti: No, I think, with the greatest respect, that it's an issue of accountability.

Mr. Paul Miller: Yes, that's what I'm looking for: accountability.

Mr. Lorenzo Berardinetti: But why would you want to shield it from the minister?

Mr. Paul Miller: I want the accountability to be eliminated from the minister so the chief prevention officer could do it.

Mr. Lorenzo Berardinetti: But questions cannot be asked of the chief prevention officer in the Legislature.

The Chair (Mr. Shafiq Qaadri): Mr. Hillier.

Mr. Randy Hillier: I'll just say that because we've added the financial component into this, it is indeed most suitable that the minister be the one who makes any decisions in this regard. Anything less could be construed as taxation without representation, even. I really think accountability is—

Mr. Paul Miller: I'm confused.

Mr. Randy Hillier: You've got financial considerations in there now. The financial considerations must remain with the Legislature, in my view.

The Chair (Mr. Shafiq Qaadri): Thank you. Any comments on NDP motion 67?

Mr. Paul Miller: No, I don't have any comments.

The Chair (Mr. Shafiq Qaadri): Fair enough.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

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The Chair (Mr. Shafiq Qaadri): NDP motion 67 is defeated.

NDP motion 68.

Mr. Paul Miller: I move that subsection 22.4(2) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

This is actually giving the CPO a greater role and eliminating any influence or misdirection from any government minister's office.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 68?

Mr. Lorenzo Berardinetti: The argument is similar to the one just made, and so the government will not be supporting this motion. This motion and other similar motions would have the effect of removing powers from the minister and placing them with the CPO, that relate to the financial accountability and oversight of designated entities, including the power to establish standards. As the minister would ultimately be accountable to the Legislature with respect to the ministry's funding and oversight of the designated entities, it is not appropriate to remove such powers and responsibilities from the minister.

As I mentioned earlier, the government is proposing a number of motions that would enhance the CPO's role with respect to the designated entities.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 68? We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): That's defeated.

NDP motion 69.

Mr. Paul Miller: I move that subsection 22.4(3) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

"Same

"(3) The standards established under subsection (2) may address the objectives, functions and financial accountability of the entity."

What this does is narrow the focus on what the minister or CPO should be dealing with. It reduces government interference with governance of organizations. "Accountability"—I believe that's the word we want here.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. It would limit the standards that designated entities must adhere to, to address. The minister needs the ability to set standards that can address any matter to ensure appropriate accountability and oversight of designated entities.

Further, the provision, as currently drafted, achieves the same intent as the current provision in the Workplace Safety and Insurance Act, 1997.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 70.

Mr. Paul Miller: I move that subsection 22.4(4) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

"Same

"(4) The chief prevention officer may establish different standards for safe workplace associations, occupational health clinic or training centre serving different industries or groups.

"Clinic and centre

"(4.1) The chief prevention officer shall establish a labour-governed occupational health clinic and a labour-governed training centre, of which,

"(a) the occupational health clinic shall provide clinical and prevention services whose mandate is,

"(i) to investigate the work-relatedness of workers' health conditions,

"(ii) to promote the prevention of occupational injuries and diseases, and

"(iii) to provide services designed to eliminate or reduce occupational hazards and improve the health of workers; and

"(b) the training centre shall provide educational, training and information services and have the mandate to,

"(i) establish its education, training and information priorities,

"(ii) develop education, training and information courses and materials, and

"(ii) deliver training including training required for certified members under section 7.6, and health and safety representatives training required under section 5.1."

The Chair (Mr. Shafiq Qaadri): We'll take your (ii) as a (iii).

Further comments on NDP motion 70?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. The current provisions in the bill closely mirror the intent and the provisions in the Workplace Safety and Insurance Act, 1997. This provision, by setting out specific mandates of a clinic and training centre, would limit flexibility. Bill 160, if passed, would allow for differences in designation standards, and this can provide flexibility.

To be clear, this government values and will continue to value the continuing role of both the occupational health clinics for Ontario's workers and the Workers Health and Safety Centre and Ontario's occupational health and safety system.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: This simply allows the people who know the business the best to function without encumbrances. You are tying their hands in situations in which they know best, and the government should not be dictating to these people who have delivered a service in our province for many years and are experts in their field. I don't think that the government should be interfering with mandates and service-providing venues when they are not aware of it, they don't do it on a day-to-day basis. It's basically the old story: You have to walk a mile in another guy's shoes to know what's going on. It's too much control by the government and I think these people know their business. They've provided wonderful programs and wonderful service to our province, and I think what you're doing is handcuffing them. I don't like the way this is going.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 70?

Mr. Lorenzo Berardinetti: We just choose to disagree.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 71.

Mr. Paul Miller: I move that subsections 22.4(6) to (11) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be amended by striking out "minister" wherever it appears, and substituting "chief prevention officer" in every case.

We want to shift more power to the CPO and eliminate any interference from government agencies.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. As I've already stated previously, the setting of standards for such entities is tied closely with the funding eligibility of the entities. The minister would ultimately be accountable to the Legislature with respect to the ministry's funding and oversight of the designated entities and, as such, these functions and powers should remain with the minister.

The Chair (Mr. Shafiq Qaadri): Further comments? If not, we'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 72.

Mr. Paul Miller: I move that subsection 22.5(1) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be amended by striking out "a grant" and substituting "funding".

This basically makes it clearer in the funding formula for different organizations.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. Bill 160 uses the term "eligibility for a grant" instead of "eligibility for funding" because the reference to "grants" describes the transfer payment relationship that these entities would have with the ministry if the bill is passed.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 73.

Mr. Lorenzo Berardinetti: I move that subsections 22.5(1) and (2) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be struck out.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. Those in favour of government motion—yes, Mr. Miller? Okay. Those in favour of government motion 73?

Ayes

Berardinetti, Dhillon, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Any opposed? None opposed. Government motion 73 carries.

NDP motion 74.

Mr. Paul Miller: I move that subsection 22.5(2) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be amended by striking out "minister" and substituting "chief prevention officer".

This basically shifts responsibility to the CPO.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. We understand that the motion would transfer the duty from the minister to the CPO to monitor the entities' operations. The government can't support this motion. The intent of this motion is achieved in a proposed government motion which sets out more comprehensive duties of the CPO to monitor designated entities than contained in this motion.

The Chair (Mr. Shafiq Qaadri): The clerk informs me that this motion is apparently out of order.

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The Clerk of the Committee (Mr. Trevor Day): The previous amendment struck out the subsection that you're attempting to amend here, so the amendment is now out of order.

Mr. Paul Miller: Seventy-four is out of order. What's the reason?

The Clerk of the Committee (Mr. Trevor Day): Subsection 22.5(2) was struck out in the previous amendment.

Mr. Paul Miller: That's 73 you're talking about.

The Clerk of the Committee (Mr. Trevor Day): Yes.

Mr. Paul Miller: Okay.

The Chair (Mr. Shafiq Qaadri): We're agreed that NDP motion 74 is out of order and therefore withdrawn.

We'll proceed, then, to NDP motion 75. Mr. Miller, the floor is yours.

Mr. Paul Miller: I move that subsection 22.5(3) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be struck out.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. The government does not support it because this motion would limit the minister's power to direct a designated entity. This current provision would ensure that the minister has powers to direct entities, for example, with a view to ensuring that programs and initiatives undertaken by these entities are aligned with system partners' initiatives where that is appropriate, and that efforts are made to meet the health and safety objectives of the provincial occupational health and safety strategy. Furthermore, this provision would simply move to the Occupational Health and Safety Act the provision that is currently in the Workplace Safety and Insurance Act, 1997, with the difference that instead of it being a power of the WSIB, it would be a power of the minister.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Randy Hillier: I'll just have to add in here that that clause is so vague: "The minister may direct a designated entity to take such actions as the minister considers appropriate." I think that is just too broad and too vague to allow it to stand in a piece of legislation. There needs to be some criteria attached to that to make it a valid and legitimate clause. Surely the government members must see that as well. It ought to be including some of that criteria in it not to leave it so vague.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 75? If not, we shall proceed to the vote.

Ayes

Hillier, Paul Miller.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 76.

Mr. Paul Miller: I move that subsection 22.5(4) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

"Government directives

"(4) The chief prevention officer may direct an entity to comply with government directives regarding financial accountability."

This, with an explanation, limits government interference in how the organizations operate, but also ensures financial accountability.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: We do not support this motion. Government directives may address matters

other than financial accountability. The current provision in the bill is broad enough to ensure that designated entities are required to comply with the government directives—that all publicly accountable organizations are. Further, the government is of the view that these powers more appropriately reside with the minister as opposed to the CPO, as the minister is ultimately accountable to the Legislature with respect to the ministry's funding and oversight of the designated entities.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Those in favour of NDP motion 76?

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 77.

Mr. Paul Miller: I move that subsection 22.5(5) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be amended in the portion before clause (a) by striking out "the minister may" and substituting "the chief prevention officer, after giving notice to the entity of any alleged deficiency or incidence of non-compliance, and an opportunity for discussion and resolution, may".

This basically ensures that the CPO has to consult to ensure compliance instead of using the ultimate hammer on the entity.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Lorenzo Berardinetti: The government does not support this motion. In some cases, it may be essential for the minister to act quickly in cases where a designated entity is not operating in accordance with the standards. This provision would hinder that ability.

Further, the government is of the view that these powers more appropriately reside with the minister as opposed to the CPO, as the minister is ultimately accountable to the Legislature with respect to the ministry's funding and oversight of the designated entities.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote, unless there are comments.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 78.

Mr. Lorenzo Berardinetti: I move that subsection 22.5(5) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be amended by striking out the portion before clause (a) and substituting the following:

"Failure to comply

"(5) If an entity has committed any failure described in paragraphs 1 to 3 of subsection 22.5.1(3), the minister may,"

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Paul Miller: Yes. We find this too heavy-handed. We will not support it.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Government motion 78 carried.

As you know, we've already dealt with and carried motion 79.

NDP motion 80.

Mr. Paul Miller: I move that subsections 22.6(1) and (2) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

"Appointment of administrator

"(1) For the purposes of assuming control of an entity and responsibility for its affairs and operations under clause 22.5(5)(b), the chief prevention officer may appoint an administrator.

"Notice

"(1.1) The chief prevention officer shall provide 30 days written notice to the board of directors of the entity before appointing the administrator, but if there are not enough members of the board of directors to form a quorum, the chief prevention officer may appoint an administrator without notice.

"Term of appointment

"(2) The appointment of the administrator remains valid until it is terminated by the chief prevention officer."

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government does not support this motion. An administrator would only be appointed in serious cases, where swift and immediate action needs to be taken. In those cases, providing a notice period would unduly delay actions to resolve serious issues. Further, the government is of the view that these powers more appropriately reside with the minister as opposed to the CPO, as the minister is ultimately

accountable to the Legislature with respect to the ministry's funding and oversight of the designated entities.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 80? Mr. Hillier.

Mr. Randy Hillier: I do think the NDP has got some significant merit in this, in that it describes some process that puts some checks and balances on the system in play, such as providing that 30-day notice, as compared to what is in there at the present time: It doesn't provide any clarity or any criteria for the minister to take over the affairs of an entity.

I believe the government should be looking at this in a little bit more depth. When you have such legislation that provides such authority without providing that criteria and just leaving it up to regulations, I do believe—other than the fact that he's got the chief prevention officer in there, I would like to support the third party's amendment. But, really, I think it's important that the government look at some of these finer details before we actually bring it—it could be improved a little bit more.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 80? Seeing none, we'll now proceed—Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I must say that we appreciate the comments from Mr. Hillier. We have given some powers additionally to the chief prevention officer. But we also take into account the comments made by Mr. Hillier.

The Chair (Mr. Shafiq Qaadri): Okay, we'll proceed to the vote.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 80 is defeated, as possibly our clerk is too.

NDP motion 81.

1750

Mr. Paul Miller: I move that subsections 22.6(4), (5), (6) of the Occupational Health and Safety Act, as set out in subsection 8(2) of the bill, be amended by striking out "minister" wherever it occurs, and substituting "chief prevention officer" in each case.

This simply moves powers from the minister to the CPO.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. The government is of the view that these powers more appropriately reside with the minister as opposed to the CPO, as the minister is ultimately accountable to the Legislature with respect to the ministry's funding and oversight of the designated entities.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 8, as amended, carry? Carried.

Shall sections 9 to 12, inclusive, carry? Carried.

NDP motion 82 for section 13.

Mr. Paul Miller: I move that subsection 50(2.1) of the Occupational Health and Safety Act, as set out in subsection 13(1) of the bill, be amended by striking out paragraph 3.

It's similar to 162.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Lorenzo Berardinetti: The government will be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 82 carried.

Government motion 83 is withdrawn. NDP motion 84.

Mr. Paul Miller: I move that subsection 50(2.4) of the Occupational Health and Safety Act) as set out in subsection 13(1) of the bill, be amended by striking out "is not a competent or compellable" and substituting "is a competent and compellable".

Basically, this is—the inspectors are competent and compellable as witnesses, and they should be used as such.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. We understand the intent of the motion, and the government does not support it. The government heard from stakeholders, and there were concerns that inspectors should not be prohibited from giving evidence at the OLRB, even if the inspector has witnessed a reprisal and is in a position to provide direct evidence. A subsequent government motion addresses these concerns.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: With all due respect, the whole purpose of this motion is to allow the inspector to do his job. We're simply saying that the inspector is competent and compellable. We're saying that when he goes to a situation, whether there's a reprisal or whether there's an injury in the workplace, he could be a qualified witness. And who better than the inspector that the government

sends out to a workplace to be able to do that? We're simply saying that he should be allowed to make documentation as well as witness the situation, and be able to pass that on to the governing body.

So, really, in fact, you say on the one hand that you want the inspector to do his job, but here you're handcuffing him again. You're saying that you witnessed—you had the inspectors come in themselves from their union and tell you—I believe it was OPSEU that told you that they want to be able to do their jobs and not be restricted. I believe it was a pink slip they handed you. They don't want to be restricted and have to hand out a pink slip for someone to go through unnecessary communications and long-term complications. They want to be able to deal with it there and go and be expert witnesses, and they should. They are the inspectors who go to the workplace to determine what happened. You are, on the one hand, saying yes, you believe that they're competent, but yet you're tying their hands. The two inspectors sat here, very bravely, and stated to the government that they have not been able to do their jobs and they've been handcuffed for years. Here you are, double-talking and doing it again by handcuffing their ability to be expert witnesses. I don't understand this at all.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Those concerns are addressed in—

The Chair (Mr. Shafiq Qaadri): Sorry. Mr. Hillier, did you have a comment?

Interjection.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I respect those concerns that are brought by Mr. Miller, and I think they will be dealt with in the next motion.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to the vote, then, on NDP motion—

Interjection.

The Chair (Mr. Shafiq Qaadri): Sorry. Mr. Hillier.

Mr. Randy Hillier: You were just referring to the next motion, so I'd like to pick up on that before we go to the vote on that. Oh, that's been deleted. Okay.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote on NDP motion 84.

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Motion 84 is defeated.

Government motion 85?

Mr. Lorenzo Berardinetti: I move that subsection 50(2.4) of the Occupational Health and Safety Act, as set out in subsection 13(1) of the bill, be struck out.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote on government motion 85.

Ayes

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. Carried.

Shall section 13, as amended, carry? Carried.

NDP motion 86.

Mr. Paul Miller: I move that subsection 50.1(2) of the Occupational Health and Safety Act, as set out in subsection 14(1) of the bill, be amended by striking out "100" and substituting "50".

The reason for this is, you don't know how much the government is increasing the resources when you're doubling the size of the employer. You don't know what resources are involved here; you've just put a number on it. I think what we're suggesting is much better.

I don't know how you come up with this number, so maybe you can explain that to me.

The Chair (Mr. Shafiq Qaadri): Mr. Berardinetti?

Mr. Lorenzo Berardinetti: The government does not support this motion. There's no need to amend the proposed threshold. Bill 160 provides for the current threshold of 100 workers to be changed by regulation, if required.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 86?

Ayes

Paul Miller.

Nays

Berardinetti, Dhillon, Hillier, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 14 carry? Carried.

NDP motion 87.

Mr. Paul Miller: I move that the bill be amended by adding the following section:

"14.1 Subsection 51(1) of the act is repealed and the following substituted:

"'Notice of death or injury

"'(1) Where a person is killed or critically injured from any cause at a workplace, the constructor, if any, and the employer shall notify an inspector, and the committee, health and safety representative and trade union, if any, immediately of the occurrence by telephone, telegram or other direct means and the employer shall, within 48 hours after the occurrence, send to a director, the committee or a health and safety representative and to the trade union, if any, a written report of the cir-

cumstances of the occurrence containing such information and particulars as the regulations prescribe.'"

The Chair (Mr. Shafiq Qaadri): Mr. Miller, with respect, I'm directed to inform you that it is out of order, as section 51 is not open.

Mr. Paul Miller: Okay.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller.

We'll now proceed to sections 15 to 17. Shall they carry, inclusive? Carried.

Now, with a reference to section 18, PC motion 88.

Mr. Randy Hillier: I move that section 18 of the bill be amended by adding the following subsection to section 70 of the Occupational Health and Safety Act:

"(0.1) Section 70 of the act is amended by adding the following subsection:

"'Requirement for prior review by prevention council and chief prevention officer

"'(1.1) Despite subsection (1), before making a regulation relating to accident prevention, the Lieutenant Governor in Council,

"'(a) shall submit the wording of the proposed regulation to the prevention council established under part II.1 and the chief prevention officer appointed under that part for the purpose of obtaining their comments and recommendations with respect to the policy and wording of the proposed regulation; and

"'(b) shall consider the comments and recommendations provided by the prevention council and chief prevention officer when finalizing the policy and wording of the regulation.'"

The Chair (Mr. Shafiq Qaadri): Thank you. Any comments on PC motion 88? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: The government won't be supporting this motion as a regulation relating to "accident prevention." We find it unacceptably vague. The ministry generally posts its intent to make new regulations on the regulatory registry, which is a vehicle for public consultation. As well, the government is accepting the expert panel's recommendations, and they will be looking at our regulatory review process, or approach, that ensures regulations are current, consistent, and provide compliance, flexibility and support.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Hillier.

Mr. Randy Hillier: We have seen the creation of regulations in the past that have not been completely thoughtful for the consequences of the regulations. The intent here is pretty clear: that the prevention council and the chief prevention officer be involved and have some level of influence in the development of those regulations.

I think, truly, it goes hand in hand and is part and parcel of the objectives of this bill to improve workplace health and safety and by having that chief prevention officer and council being the subject matter experts and providing that thoughtful advice and recommendations to the minister.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 88? We'll proceed, then, to the vote.

Ayes

Hillier.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 88 is defeated.

Shall section 18 carry? Carried.

PC motion 89.

Mr. Randy Hillier: What did you just carry—

The Clerk of the Committee (Mr. Trevor Day): It comes after.

The Chair (Mr. Shafiq Qaadri): PC motion 89.

Mr. Randy Hillier: I move that the bill be amended by adding the following section to the Occupational Health and Safety Act:

"18.1 The act is amended by adding the following section:

"'73. Upon the petition of the prevention council or the chief prevention officer, filed with the clerk of the executive council within 60 days after the date of filing of any regulation relating to any of the following matters, the Lieutenant Governor in Council may, after reviewing the petition, confirm, amend or revoke the whole or part of the regulation:

"'1. Training programs or requirements.

"'2. Transitional matters in connection with the implementation of section 22.4

"'2. The functions of the Office of the Worker Adviser referred to in section 50.1.

"'3. The functions of the Office of the Employer Adviser referred to in section 50.1.

"'4. The number of employees for the purposes of subsection 50.1(2).'"

The Chair (Mr. Shafiq Qaadri): Comments on PC motion 89?

Mr. Lorenzo Berardinetti: The government will not be supporting this motion. The power to amend, revoke or place a regulation always rests with the person or body with the power to make the regulation. This power is outlined in the Legislation Act; I'll just reference subsection 54(1) of the Legislation Act, 2006.

The Occupational Health and Safety Act specifies that the Lieutenant Governor in Council has the power to make regulations. The ministry frequently considers stakeholder feedback and comments when making recommendations to the Lieutenant Governor in Council with respect to establishing any regulation made under the Occupational Health and Safety Act.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 89?

Mr. Randy Hillier: The minister still retains the authority. All this motion is saying is, upon a petition by the prevention council or the chief prevention officer in matters not regarding financial considerations, the Lieutenant Governor in Council may—not shall; may—after

reviewing the petition, confirm, amend or revoke the regulation. That's consistent with the minister's responsibilities and very consistent with the expectations outlined in the act that the prevention council and the chief prevention officer have a clear and significant role in the making of regulations.

Mr. Lorenzo Berardinetti: I appreciate those comments, but the government cannot support this motion.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. Shall the new section 18.1 carry?

Ayes

Hillier.

Nays

Berardinetti, Dhillon, Johnson, McMeekin, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall sections 19 to 30, inclusive, carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 160, as amended, carry? Carried.

Shall I report the bill to the House, as amended? Carried.

Unless there's any further business before the committee, I thank you for your endurance and patience. Committee adjourned.

The committee adjourned at 1804.

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Official Report of Debates (Hansard)

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Journal des débats (Hansard)

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Standing Committee on Social Policy

Building Families and Supporting Youth to be Successful Act, 2011

Comité permanent de la politique sociale

Loi de 2011 favorisant la fondation de familles et la réussite chez les jeunes

Chair: Shafiq Qaadri
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Tuesday 10 May 2011

Mardi 10 mai 2011

The committee met at 1603 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Colleagues and members of the public, welcome to the Standing Committee on Social Policy. As you know, we're here to begin public committee hearings on Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance.

Before inviting members to come forward and present, we have an order of business, as you'll know: the presentation of the subcommittee report, for which I will call upon MPP Johnson.

Mr. Rick Johnson: I will be presenting the report. I do have some potential amendments, but I will read the report on the advice of the clerk.

Report of the subcommittee on committee business:

Your subcommittee on committee business met on Friday, May 6, 2011, to consider the method of proceeding on Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance, and recommends the following:

(1) That the committee meet in Toronto for the purpose of holding public hearings on Tuesday, May 10, 2011, and, if required, Monday, May 16, 2011.

(2) That the clerk of the committee post information regarding public hearings on the Ontario parliamentary channel, the Legislative Assembly website, and the Canada NewsWire.

(3) That interested people who wish to be considered to make an oral presentation on Bill 179 contact the clerk of the committee by Tuesday, May 10, 2011, at 3 p.m.

(4) That witnesses be scheduled on a first-come, first-served basis.

(5) That groups and individuals be offered 10 minutes for their presentation. This time is to include questions from committee members.

(6) That the tentative deadline for written submissions be Thursday, May 12, 2011, at 5 p.m., and that this time may be extended if the additional hearing day is required.

(7) That legislative research provide a summary of presentations by 5 p.m. on the Thursday following the last day of public hearings.

(8) That, for administrative purposes, the deadline for filing amendments to the bill with the clerk of the committee be 5 p.m. on the Friday following the last day of public hearings.

(9) That clause-by-clause consideration of the bill be scheduled for either Monday, May 16, 2011, or Monday, May 30, 2011, subject to the number of public hearing days required.

(10) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

That is the report.

The amendment on which I would ask for consideration by the committee would be to number 9: That clause-by-clause consideration of the bill be scheduled for either Monday, May 16, 2011, or Thursday, May 19, 2011, from 9 a.m. to 10:15 a.m. and 2 p.m. to 6 p.m. This would be changing from May 30 to May 19 for the purposes—

The Chair (Mr. Shafiq Qaadri): That's fine. Would you just repeat that, Mr. Johnson, please?

Mr. Rick Johnson: That clause-by-clause consideration of the bill be scheduled for either Monday, May 16, 2011, or Thursday, May 19, 2011, from 9 a.m. to 10:15 a.m. and 2 p.m. to 6 p.m., subject to the number of public hearing days required.

The Chair (Mr. Shafiq Qaadri): Okay. Before I invite committee members to comment, just to let you know, we do have a reasonably full day of public hearings on Monday, May 16, so that will automatically invalidate the clause-by-clause consideration. So, as Mr. Johnson, on behalf of the government, is proposing Thursday, May 19, as opposed to May 30, I presume that's in the interests of actually moving the legislation forward, since the Legislature, as you know, will be breaking for the summer session I think three days, or whatever it is, after that.

Are there any comments or objections or interests? Mr. Prue?

Mr. Michael Prue: I wish the member had consulted me. I'm not available on May 19, and therefore I will not support the motion. I don't think it's very fair for the government to move the date that was agreed without consultation or bringing back the subcommittee. I don't know why you chose that date, but it is not a date on which I am available.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there any further comments? Ms. Jones.

Ms. Sylvia Jones: My only comment is, I understood the reason we chose May 16 and May 30 is because legislatively those are committee dates that we can meet. So there would have to be some exceptional circumstances given to May 19.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Johnson, do you have anything to say before we—

Mr. Rick Johnson: Just that the purpose of this was to allow the legislation to proceed on May 30 as opposed to it being delayed, then, till May 31 or June 1, when we're running out of time.

Ms. Sylvia Jones: Although you still do have three legislative days, and if it helps, I fully intend to encourage a short third reading debate once we get through all the wonderful amendments that we will bring forward.

Mr. Michael Prue: If I could as well, the government has introduced a motion for extended night sittings in that final week. So there is no reason that this could not happen, leaving the schedule as was agreed in subcommittee. I'm at a loss to understand why the government would make this motion without consulting the other two parties. This is not the way things are done.

Mr. Rick Johnson: Well, my understanding was that a discussion has taken place, but—

Mr. Michael Prue: With whom?

Mr. Khalil Ramal: House leaders.

Mr. Rick Johnson: With the House leaders.

Mr. Ted McMeekin: Maybe your House leader has an answer.

The Chair (Mr. Shafiq Qaadri): Does the committee feel ready to vote on this particular amendment? Any further queries, comments?

Mr. Michael Prue: A recorded vote, please.

The Chair (Mr. Shafiq Qaadri): Recorded vote.

The Clerk of the Committee (Mr. Trevor Day): Just for the committee's information, May 19 is not a date on which this committee currently is authorized to sit. The adoption of this would be subject to authorization from the House to meet on that day.

The Chair (Mr. Shafiq Qaadri): All right. So is that understood?

Ms. Sylvia Jones: Does that have to be incorporated into the subcommittee report?

The Clerk of the Committee (Mr. Trevor Day): It would be helpful.

The Chair (Mr. Shafiq Qaadri): Subject to approval of the House, I guess.

Mr. Rick Johnson: Approval of the Legislature.

The Chair (Mr. Shafiq Qaadri): So we're all clear on what we're voting on right now? A recorded vote, as Mr. Prue—

The Clerk of the Committee (Mr. Trevor Day): Failing authorization of the House, do we fall back to the original dates that are in here?

Mr. Rick Johnson: Yeah, we'd have to.

The Chair (Mr. Shafiq Qaadri): Fair enough. If that's reasonably clear, a recorded vote, as requested by Mr. Prue.

Ayes

Colle, Dhillon, Johnson, McMeekin, Ramal.

Nays

Jones, Prue.

The Chair (Mr. Shafiq Qaadri): So amendment 9, as proposed, is adopted, subject to the permission of the House.

Are there any further comments on the overall subcommittee report before I move for its adoption? Mr. Johnson.

Mr. Rick Johnson: If that gets approved, then "(8) That, for administrative purposes, the deadline for filing amendments to the bill with the clerk of the committee be 5 p.m. on the Friday following the last day...." If May 19 becomes clause-by-clause, then Wednesday, May 18 at 12 noon would become the cut-off for filing amendments.

The Chair (Mr. Shafiq Qaadri): All right, we need to vote on that as well. Again, this is all subject to House approval. Do we need that to be repeated for members of the committee or has that been understood? Mr. Prue, are you content to vote on that or do you need it repeated?

Mr. Michael Prue: I'd ask for a recorded vote again because what you're doing is you're moving the whole schedule up. We had until the Friday following the last day of public hearings. Now you're moving it ahead at least two days, and you're moving it ahead of the day in which—I don't understand the rush. With whom did you consult on this?

Mr. Rick Johnson: Same thing.

Mr. Michael Prue: The House leaders said this?

Mr. Rick Johnson: That's my understanding.

Mr. Michael Prue: Again, on a recorded vote. I'm going to vote against it. I don't think that's fair, either to the committee members or to the people who are here in the room. People have come to the expectation that this is going to have a full and proper hearing, and now everything is being truncated, moved and squeezed so that we will not have a chance to properly understand what is being said, to listen to the deputations or to give full voice and effect to them.

The Chair (Mr. Shafiq Qaadri): Thank you. Before Mr. Johnson, Ms. Savoline.

Mrs. Joyce Savoline: I imagine that the member has his marching orders from his House leader, but I find it too curious that the other two House leaders have not notified the members of the committee that a change has been made. That's all I'm going to say. I just find it very curious that it didn't get that far. I can't wait to speak to our House leader.

Mr. Michael Prue: I'm going to speak him now, so I ask for an adjournment in order to go see my House leader. I cannot believe this has happened.

The Chair (Mr. Shafiq Qaadri): Mr. Prue is entitled, I'm informed, to a 20-minute recess before any vote, so that's what we'll do.

The committee recessed from 1612 to 1618.

The Chair (Mr. Shafiq Qaadri): Members of the committee, in the interests of efficiency, that 20-minute break was reduced to seven, so we'll now come back, with the will of the committee. Mr. Johnson.

Mr. Rick Johnson: Chair, I would like to say that we've had a discussion about this and have come to a meeting of the minds. I understand that this vote has to proceed, but we will not be supporting the amendment. After we defeat this amendment, I will propose another amendment that we go back to the original report for adoption.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. So, assorted sundry amendments, as we've itemized already, 9 and 8 etc.: Those in favour of those amendments? Recorded, as Mr. Prue asked earlier.

Nays

Colle, Dhillon, Johnson, Jones, Prue.

The Chair (Mr. Shafiq Qaadri): Thank you. The amendments are now deceased.

Mr. Rick Johnson: I would like to move adoption of the subcommittee report as originally moved.

The Chair (Mr. Shafiq Qaadri): Are there any further comments? Mr. Prue.

Mr. Michael Prue: Do we not have to reopen the last vote?

Mr. Khalil Ramal: We defeated it; we didn't vote on it.

Mr. Michael Prue: Well, the last vote was voted on and—the first vote—

The Clerk of the Committee (Mr. Trevor Day): The vote now would be that the subcommittee report revert to its original form.

Mr. Michael Prue: All right. Okay.

The Chair (Mr. Shafiq Qaadri): So we're clear on that? Yes, Ms. Jones.

Ms. Sylvia Jones: Could I make one suggestion? Now that we know in fact that we are going to continue to have public deputations on May 16, that we just strike that date out of point (9); so, "The clause-by-clause consideration of the bill be scheduled for Monday, May 30...."

The Chair (Mr. Shafiq Qaadri): Mr. Kormos. Oh, I'm sorry. Are you finished?

Mr. Peter Kormos: I didn't mean to interrupt you.

Interjection.

Mr. Peter Kormos: Okay. I just wanted to be perfectly clear about what House leaders discussed, because the government House leader put to us the interest in the committee being flexible around accommodating participants, people who wanted to make submissions and clause-by-clause.

We in the NDP recognize that this bill should be passed for third reading before June 2 when the Legislature rises, and we're going to make every effort to ensure that that happens, but the House leaders agreed that we would be supportive of any decision the committee made that might require the permission of the House; in other words, to sit outside of regular hours or on days when the committee didn't normally sit. We didn't intend to create the impression that we were accepting—because the government House leader, Ms. Smith, put forward a hypothetical calendar. Neither the Conservative House leader nor I, as I recall the meeting, committed ourselves to that. We agreed that that was one model and that if the committee required the House's permission to be adopted, I'm sure the committee, with its subcommittee, will work this out and everybody will be happy when all is said and done—not everybody. I'm not going to be happy until October 6, but by and large, people will be happier on this bill.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos, we thank you for that clarity en route to your happiness.

I would now invite people to vote on the subcommittee report as originally proposed without the amendments. Those in favour, recorded, of the subcommittee report? Those opposed? I believe that was a recorded vote, but in any case the subcommittee report is adopted.

BUILDING FAMILIES AND SUPPORTING YOUTH TO BE SUCCESSFUL ACT, 2011

LOI DE 2011 FAVORISANT LA FONDATION DE FAMILLES ET LA RÉUSSITE CHEZ LES JEUNES

Consideration of Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance / Projet de loi 179, Loi modifiant la Loi sur les services à l'enfance et à la famille en ce qui concerne l'adoption et les soins et l'entretien.

The Chair (Mr. Shafiq Qaadri): I will now move to invite our first presenters to please come forward. For all our presenters today, you'll have exactly 10 minutes in which to make your presentation. This will be enforced with military precision. Any time remaining within those 10 minutes will be divided evenly amongst the parties for questions and comments.

MS. GAIL AITKEN

MS. BIRGITTE GRANOFSKY

The Chair (Mr. Shafiq Qaadri): I now invite Professor Aitken as well as Birgitte Granofsky of Ryerson. Welcome, and your official time begins now.

Ms. Birgitte Granofsky: This is Gail Aitken, and I'm Birgitte Granofsky. Gail is professor emeritus from Ryerson's social work department; I'm a psychological associate. We're both members of the Children in Limbo Task Force and so are the others who are mentioned in our submission.

The Children in Limbo Task Force is a task force of the Sparrow Lake Alliance. The Sparrow Lake Alliance and the task force were founded by the late psychiatrist

Dr. Paul Steinhauer. It's a voluntary coalition of Ontario professionals of all stripes who work with children and for children. The task force meets to discuss how we as a society can best look after the needs of the children and youth in our care.

In front of you is our brief. Gail will now present you with its main points, but please read our arguments. Not least, read the quotations from kids and youth. They speak succinctly about what is important to them, as will the young people that you will hear from later on this afternoon.

Ms. Gail Aitken: Thank you for having us here today. We wish to commend you and the Minister of Children and Youth Services for taking action to improve the lives of some of the 9,000 children that are in the province's care as crown wards. We would like to draw your attention to a few of the points—we can't cover them all—that are in the brief.

We appreciate the fact that there's movement to extend the age of protection to 18, and extended care and maintenance should be available definitely until age 25, particularly for children, for youths who are in a full-time program. We would not cast our own 16-year-olds out to the winds to be on their own, nor should we do it to these children. The results and outcomes have given witness to that.

Another major point is that we want there to be pressure for greater stability, consistency and strong relationships because they're absolutely essential to a child's healthy development. We haven't seen, in the last few crown ward reviews—and one hasn't been out this year—that there has been improvement in the numbers of placements and the numbers of changes in workers that these children are subjected to. That is very destabilizing for them.

The granting of access orders is another big issue, and the process of implementing the access orders needs to be reviewed and revised. As the minister has stated, 75% of youths in care have access orders; many of them are implemented. The difficulty is that the basis on which these orders are granted is uncertain, unstable, inconsistent etc. What we need is a review of that whole process and also of the methods relating to the implementation of the access orders. Access visits are excellent for some children if they are well supervised and conducted consistently on a regular basis with some reliability, but the criteria for granting access seem to be inconsistent, the way they're carried out around this province is inconsistent, and follow-ups are often non-existent. So we would like some attention there.

Adoption with openness we feel is an optimal outcome for many children who are foster children. This is because the average age at which children become crown wards now is about eight. Also, this is an era of information access etc., so with these older children being the ones who are eligible for the permanency of adoption, openness in adoption is an excellent thing, but it has to be implemented properly with well-trained people trying to build supportive relationships between the parties involved. If that does not exist, then the situation can be fraught with difficulties.

We want children also to be involved with the decisions that affect them. The bill that we've seen, Bill 179, suggests 12 years or over. We feel that many young children six or seven years of age have a right to have their say in the decisions that affect them. As it's appropriate to their capability, they should be consulted.

Adoption subsidies and post-adoption counselling are things that have been sadly neglected in this province. After adoption, especially when many of these are very troubled children, there needs to be supportive services. The kind of families who can adopt troubled children often may need some financial assistance, so this should be attended to. The CASs have to have the resources and the funding flexibility to be able to accomplish that, given that support.

Children urgently need "forever families." That's the phrase they're using now; they want forever families, and there are many methods of gaining this. We've said that we support openness in adoption. Adoption agreements, rather than orders, seem to be appropriate, but there are other ways. The kinship care arrangements that you know of can be, in some instances, very good for the children, but it has to be recognized that in that situation there's support required, as well as counselling.

Also, the legal guardianship arrangements, which are feasible according to the legislation currently, haven't been taken advantage of to the extent that they should be. There are many advantages to the legal guardianship arrangements, and they're often with tried-and-true foster parents who are given the position of being the legal guardian—we don't like the word "custodianship" but guardianship—of these children because it simplifies the arrangements for all the parties concerned and it makes them have an expectation of permanency—the youth and the family. This lets the youths know that this is their family and it's for keeps.

One thing we found in research is that children are not well informed. Children in foster families need to be well informed. The major complaint from foster parents that we hear is that they aren't kept informed by the agencies or by the workers about the circumstances around the child. They need better communications all the way around.

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The children's needs must come first. If we don't pay for the services and supports that they need now, we are going to pay later. Whether it's in correctional services or other ways, we will pay ultimately much more if we don't try to provide the help to children that we should while they are young and malleable. We recommend attention to funding and funding flexibility for the CASs, because without that, we as a society will rue the day and experience the effects.

We'll accept any questions that you may have on these points, and we'll do our best to give a response.

The Chair (Mr. Shafiq Qaadri): Thank you very much. About 45 seconds a side: Ms. Jones.

Ms. Sylvia Jones: Very quickly, do you believe that the adoption subsidy should be in legislation or left to the flexibility of the individual CASs?

Ms. Gail Aitken: I think that there should be reasonable flexibility.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: On that same subject of subsidies: Should it be in the legislation, or yearly, how much the subsidy is going to be? Because I'm very worried about governments of different stripes coming along and cutting the subsidy. That would be disastrous, if you're getting a subsidy and then lose it and then get it back again from another government four years later.

Ms. Gail Aitken: I don't think that it's probably feasible to legislate the amount of the subsidy, particularly by age group. Given that many of these children have physical or mental health problems and their needs can be very specific, the amount of funding available per child—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. To the government side: Mr. Colle.

Mr. Mike Colle: Just thank you again for the heartfelt presentation. About the access orders: What's one thing that could be done to make them more consistent and more effective?

Ms. Gail Aitken: Judges' training. As well—

Mr. Mike Colle: That's fine. Okay, very good. Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Professor Aitken, and Ms. Granofsky, for your deputation.

FOSTER CARE COUNCIL OF CANADA

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward: Mr. Farrugia of Foster Care Council of Canada. Michele.

Remarks in Italian.

The Chair (Mr. Shafiq Qaadri): And colleague. Welcome, gentlemen. Your 10 minutes officially begin now.

Mr. Michele Farrugia: Hello, committee members and guests. It's an honour to speak on Bill 179 today.

My name is Michele Farrugia. I'm a 21-year-old former crown ward who currently lives in Peterborough, Ontario. I am here today in my capacity as the volunteer director of parliamentary research for the Foster Care Council of Canada, which is a not-for-profit group of former crown wards and their supporters who advocate for transparency and accountability of child welfare services.

We welcome the minister's stated intentions of Bill 179, which are said to permit youth over 16 who are no longer in the foster care system to return and ask for supports if they so desire, and to ensure that those children and youth in care whose families and community members are not utilizing their access orders are afforded "forever homes" through adoption.

I'll begin by addressing the issue of youth returning to their CAS for extended care and maintenance services.

When the minister introduced the bill, she stated, "Yet right now, a youth who leaves the care of a CAS is not allowed to come back for services." She also stated, "The act, if passed, would allow those youths whose CAS care or customary care ended at age 16 or 17 to return to their CAS and be eligible to receive benefits until age 21."

These statements are not completely accurate, nor do they reflect what is actually written in the bill.

Over the years, many youth in care groups, advocates and others, including the Foster Care Council of Canada, have advocated for extended care supports to be provided to youth up to, and including, the age of 24.

Disappointingly, the bill appears to continue the current and long-time practice of preventing 16-year-olds and 17-year-olds, native or otherwise, from returning for services before their 18th birthday because section 1 of the bill says, "A society or agency may provide care and maintenance in accordance with the regulations to a person who is 18 years of age or more...."

The proposed amendments in sections 1 and 12 of the bill, as it is worded today, do not offer any supports to 16-year-olds and 17-year-olds who return to their society seeking supports; that is, until they have turned 18, despite what the minister and other MPPs have alluded to in their statements to the Legislature.

If you pay special attention to the wording of sections 1 and 12 of the bill and compare them to the wording of the existing provisions in section 71.1 of the current act, the changes that are proposed in the bill will do nothing but add restrictions and confusion for CAS staff who have to interpret the newly amended section 71.1 when determining whether to support a returning youth over 18. These proposed changes add new and limiting eligibility criteria for youth over 18 that do not already exist in section 71.1.

Right now, under section 71.1 of the Child and Family Services Act, as it is written today, youth and native youth of any age over 18 have the right to return to their society for care and maintenance up to any age. There is currently no imposed limit on how old they can be to get services.

However, when you recall the minister's statements and those of other MPPs during introduction and debate, they have all clearly indicated the ministry's intention to limit extended care and maintenance services to youth until they turn 21, a limitation which is not in the statute today. With respect to this issue, we recommend the following:

—that the minimum age of eligibility for returning youth to return, apply for and receive services be set at 16;

—that the maximum age of eligibility for returning youth to return, apply for and receive services be increased to the entirety of their 24th year;

—that a society shall automatically and immediately accept and provide services to a youth of any age between their 16th and 25th birthdays upon their return and application for services at least once during this period.

In the interests of time, I have included the remaining recommendations on this issue at the end of our written submission for your review.

Moving on to the other issue presented in this bill: the hasty termination of children's access to their parents, brothers, sisters and grandparents in order to promote adoption. The shortened time frames and provisions for terminating existing access orders is of concern to the council because currently in child welfare proceedings, the courts regularly delegate their discretionary authority to the societies by letting them decide both the method and frequency of access between children and their loved ones. They do this by issuing orders which say "access at the discretion of the society."

While considering the proposed 30-day "with or without notice" termination of children's access orders to their parents, siblings, grandparents and loved ones—again, those access orders which have been left to the discretion of a society—please keep the following in mind: The council has witnessed parents', siblings' and grandparents' attempts to utilize their court-ordered access to their children being denied when the society intercepted letters, family photos and phone numbers, or refused to allow parents to arrange and pay for their own visit with their child, only to be told later by the society, after the family complained, that the family were the ones who were not utilizing their access order, that this has harmed the child, and, because of this, the society will no longer let them have access to their child. The blame is being redirected to the loved ones, and the children are being told their family does not want to, or is unable to, contact them.

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The council is also aware of the Ottawa CAS turning a mother away at the door when she came to visit her newborn baby as scheduled, wrongly claiming that the mother had been the one who cancelled her own visit, and to go back home.

In the interests of time, I will stop there and take any questions you may have.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Farrugia. Again, about 45 seconds a side, beginning with Mr. Prue.

Mr. Michael Prue: You made three very sensible recommendations; one, that any youth can apply to come back for services from the time of 16 on, but the third one was the one that got me: that they shall only grant it once. How you phrased it is, "upon their return and application for services at least once during this period." How did you settle on that number, that they have to act on it once?

Mr. Michele Farrugia: Can I please get back to you after the hearing?

Mr. Michael Prue: Absolutely. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Farrugia. Mr. Colle.

Mr. Mike Colle: Michele, an excellent presentation. It was really thoughtful. I want to commend you and the council for what you presented.

I certainly will ask for staff to look at that need for clarification about access, or allowing the youth back until they're 21 to 24. I will get an answer for you on that and try and clear that up.

Mr. Michele Farrugia: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Ms. Jones?

Ms. Sylvia Jones: My question relates to that 30 days for termination of the access orders. I think that you've hit on something. I'm wondering if you have an alternative number. If you think 30 days is not enough, what would be appropriate?

Mr. Michele Farrugia: If 30 days is not enough, 60 or 90 days.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Mr. Farrugia, for your deputation on behalf of the Foster Care Council of Canada, and to your colleague.

ONTARIO ASSOCIATION OF CHILDREN'S AID SOCIETIES

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward: Ms. Ballantyne and Ms. Reitmeier of the Ontario Association of Children's Aid Societies. Welcome. Please begin now.

Ms. Mary Ballantyne: Thank you. My name is Mary Ballantyne and I'm the executive director of the Ontario Association of Children's Aid Societies. I have with me Kristina Reitmeier, who is the director of legal services with the Children's Aid Society of Toronto. She'll assist with answering some questions.

The Ontario Association of Children's Aid Societies would like to thank the Standing Committee on Social Policy for providing us with the opportunity to comment on Bill 179, the Building Families and Supporting Youth to be Successful Act.

OACAS is a membership organization, and we represent 51 of the 53 children's aid societies in Ontario. For 99 years, we have advocated on behalf of children and families.

The OACAS applauds the government for its introduction of Bill 179, for its intent to increase the number of children who find permanency through adoption and other permanency options, and for assisting youth in care as they transition to adulthood. The OACAS supports the passage of Bill 179, yet we offer input in the interest of strengthening this bill so that it can achieve its objectives.

First of all, regarding the pieces of the bill about youth in care, the OACAS recommends that all youth who are in the care of children's aid societies at any time at age 16 or 17 be allowed to receive support until 21. As the bill is proposed now, a youth who leaves care at 16 or 17 must return to receive service before the age of 18 in order to receive that support until age 21. Many youth may not be ready to return for support before the age of 18, so the OACAS recommends that Bill 179 be amended to allow youth to return for support at any time until the age of 21.

Secondly, those youth who never leave care at age 16 or 17 and are society or temporary wards should also receive support until age 21. Crown wards are guaranteed

this support through the CFSA, but society wards and youth in temporary care and custody should also be guaranteed this support, as they are all vulnerable.

Regarding the age of protection, the OACAS recommends that the Child and Family Services Act be amended to allow all children in Ontario to be protected from abuse and neglect until age 18. In Ontario, a child must be under the age of 16 in order for a children's aid society to respond to a child protection concern. A 15-year-old boy or girl who is being abused or neglected can receive protection from a CAS, but a 16-year-old cannot. This is inconsistent with the United Nations convention on the rights of children and many pieces of provincial and federal legislation that exist, including the Children's Law Reform Act, the Divorce Act and the Education Act. It is time for Ontario to allow all children to be protected from physical abuse, sexual abuse and neglect until the age of 18.

Regarding the issues of adoption addressed in Bill 179, we strongly support the removal of barriers that prevent children from finding permanency through adoption or other permanency options.

Bill 179 should be amended to strengthen the voice of adoptive parents. Their voice needs to be on equal footing with others. As a result, we recommend that Bill 179 be amended to require the court to be satisfied that adoptive parents have the ability to comply with and have consented to an openness order. As it is currently drafted, Bill 179 would require the court to consider only the ability of the adoptive parent to comply with an openness order. This does not place the adoptive parent's voice on equal footing with other voices. For example, a child who is 12 or older has to consent to openness, and the person who has the access order also has the ability to respond, so the court should be satisfied that adoptive parents are both able and willing to comply with the openness order, given the significant commitment that they are making.

The second point regarding adoption is that the OACAS recommends that Bill 179 be amended so that if an openness agreement is sufficient to provide a beneficial and meaningful relationship with the child, the court should not consider an openness order. OACAS supports Bill 179's requirement that CASs consider the benefits of both openness orders and openness agreements, but when an openness agreement is sufficient, the court should not consider making an openness order. This amendment would encourage matters to be resolved without unnecessary litigation, which may undermine the adoption.

The OACAS recommends that Bill 179 be amended to ensure that all children who receive notice of intent to place for adoption are provided with independent legal representation. Currently, no legal mechanism exists in Bill 179 for a child's legal representation to occur at this stage of the process. Legal representation for the child or children being adopted, as well as their siblings, ensures that their voices are being heard and considered by the court.

The fourth area under the adoption section is that for aboriginal children the OACAS recommends that the First Nations be provided notice of intent to place for adoption and have the right to apply for an openness order. Currently, when a children's aid society intends to begin planning for the adoption of a child who is aboriginal, they must provide 60 days' written notice of their intention to the child's band or native community, and we, the OACAS, support this. However, with the intent of Bill 179, we believe that this is no longer sufficient. We believe that an aboriginal child's First Nation should also be provided with a notice of intent to place the child for adoption and the right to make an application for an openness order. That being said, many aboriginal children and youth will find permanency through customary care and not adoption; therefore, we believe that these families must be provided with the same supports and subsidies that will be provided to adoptive families.

In conclusion, in order to effectively implement Bill 179, the OACAS recommends a multi-year implementation plan, sufficient resources to implement it properly, post-adoption supports and subsidies for adoption and other permanency options, and that we allow youth to remain in foster care past the age of 18, until they complete their schooling.

The Ontario Association of Children's Aid Societies applauds the government for the introduction of Bill 179 and its intent to increase permanency for children and assist youth in care as they transition to adulthood.

Thank you for the opportunity to present. We'd be pleased to take your questions.

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The Chair (Mr. Shafiq Qaadri): Thank you. We have about a minute or so per side, beginning with the government. Mr. Colle.

Mr. Mike Colle: Thank you very much for your comprehensive overview and some very valid amendments that you proposed here.

The question I had is about legal representation of children in a proceeding. Normally, what happens in a proceeding? Essentially, the parents have legal representation, or the government has legal representation, and the child has no one acting on their behalf or protecting their interests?

Ms. Kristina Reitmeier: I can answer that. When there's a child protection proceeding before crown wardship, there is a mechanism in the act for the court to appoint independent legal representation, and there's an office in Ontario, the Office of the Children's Lawyer, that takes on the role of representing children in those proceedings. All we're recommending is that a companion type of provision allowing—

The Chair (Mr. Shafiq Qaadri): Thank you. To Ms. Jones.

Ms. Sylvia Jones: Again, I will ask about the adoption subsidy. Do you believe that should be at the flexibility of the individual children's aid society? Or do you want some specifics laid out in the legislation?

Ms. Mary Ballantyne: Laying things out specifically in the legislation would probably be too restrictive.

However, to the point that was made earlier, there needs to be some mechanism to ensure that if governments change, there's not going to be a change in that practice. So whether that happens through regulation—we'd certainly be willing to discuss that further, but we would want some consistency there.

Ms. Sylvia Jones: I'm not sure you need the number in there, but if you want consistency across the province, you're going to have to put something, legislatively, in there.

Ms. Kristina Reitmeier: Maybe a provision that allows the provision of post-adoption services compounded with regulation-making authority so that the minister could—

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Prue.

Mr. Michael Prue: In terms of First Nations, you talked about more customary adoptions and having a different procedure. Are you looking for the band council or the extended family to have some say in this? I'm not exactly sure, from what you said, who would be the person who signs on.

Ms. Mary Ballantyne: Currently the First Nation itself, not necessarily the family, does have a legislative right to plan for the child. What we are saying here is that because they have that right, they should, if a child is being placed for adoption, have the right to have some sort of openness agreement for that child. If they go off to be adopted somewhere else, there would be an openness with the First Nation.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Ballantyne and Ms. Reitmeier, for your deputation on behalf of the Ontario Association of Children's Aid Societies.

MS. ANNE PATTERSON

The Chair (Mr. Shafiq Qaadri): Ms. Patterson, are you there?

Ms. Anne Patterson: Yes, I am.

The Chair (Mr. Shafiq Qaadri): Thank you. This is Dr. Qaadri. It's the social policy committee. You're before the committee. You now have 10 minutes, and we'll have time remaining for questions and comments afterwards. I invite you to please begin now.

Ms. Anne Patterson: Thank you very much. I'm very pleased to have the opportunity to address this bill. I was, myself, fostered and adopted by CAS, and I also worked as a private investigator and a volunteer, reuniting others for almost 20 years.

I find some of the things in this bill very disturbing, particularly the language around it—the "forever safe, forever family" stance. Personally, I have never seen more cases of child abuse in my life as I have with those who have been fostered and adopted by CAS. Far too many of us have been abused, overall, and too many of us have suffered hugely due to CAS placements.

Frankly, I find it unconscionable that the ministry is saying adoption is safe. Both foster care and adoption need to be included in real child abuse education, not exempt for false appearances, leaving children at real risk. Many do not end up in good homes. Where is the research about the real outcomes of adoption instead of the biased cookie-cutter nonsense that is "forever safe"?

To me, adoption should be about finding homes for children who need them when no one in their family, including both sides, can raise them; not a system to find children for those who want them.

The infertility and those-who-have-adopted panel, in my opinion, is very biased. Adoption is not, in fact, a cure for infertility.

In 2005, Deb Matthews said 9,000 crown wards were in this same position, and yet six years later and a mere few weeks before the end of the session, they want to ram this bill through. I really doubt that older crown wards will be adopted as the CAS proceeds to focus on younger children.

This bill gives the CAS sweeping power to capture people's children, and it leaves parents with a 30-day window to fight an agency that has no accountability, no transparency and no oversight to speak of. Does this sound fair to you? Does it sound reasonable? Criminals have more chance of appealing than this bill allots to parents who will have to fight them after their kids have been captured for the purposes of a fast-track stranger-adoption system.

Rosario Marchese has disclosed that the Child and Family Services Review Board has no teeth, period. It currently has 50 cases that it cannot even hear, and it cannot address problems that people are experiencing or any cases before the courts. It seems to me that it is nothing more than window dressing for appearances, and in fact it has been stagnant for over a year and was ineffective, in many people's opinions, in the first place.

In addition, Mr. Frank Klees also mentioned that social workers are not even properly registered. In fact, these agencies are virtually accountable to no one, and I would like to commend both Rosario Marchese and Mr. Klees for mentioning these very serious problems. I would also like to thank Peter Kormos, Michael Prue and other MPPs for additionally mentioning various problems during the Ombudsman bill debate.

It seems to me that the Liberal Party is actually taking active steps to circumvent the charter for children and their families to benefit CAS and others for financial gain. I really wonder, is this bill even constitutionally possible?

In addition, Minister Broten mentioned the coroner as an oversight mechanism. Well, I would say that is a bit too late, when a child has been killed under CAS care. From my own professional and personal experience, CAS has collectively broken every law in the book. In fact, historically, home studies were not done in many cases whatsoever.

I was invited to speak about this bill on a program called Just Right Media last week. Please listen to the program. It is available online, and it also covers the historical failures of CAS. I fear history will repeat itself.

CAS has farmed children over the borders before, and I really fear they're going to do it again. Politicians might ask if other illegal activities might even be going on as well. A Hamilton CAS supervisor was arrested a few years ago for shipping guns and drugs over the border. That CAS is just out of control speaks for itself. I am disgusted that the Ombudsman has been gagged and roped from investigating these very serious matters, and I have some serious questions for the committee:

(1) Why are private adoption brokers working in the Ministry of Children and Youth Services while they're also getting kickbacks to line their own pockets by doing private home studies?

(2) Why is the ministry responsible for children and youth even studying infertility in the first place? The child advocate, Irwin Elman, did a very disturbing report, citing that 90 dead children had occurred under CAS in one year, and I would hope it would be far more pressing to investigate precisely how that happened.

(3) The Globe and Mail had a front-page news story a few years ago that over half of crown wards themselves were being inappropriately medicated, and I have to wonder why the ministry wasn't under some type of a probe regarding this at that point. I fear that perhaps the two are somehow connected.

1700

(4) I actually have grave reservations about this in particular. On the sustainability panel that is currently reviewing children's aids is a former board member of the Toronto children's aid. That particular agency was cited for gross spending violations in the Ontario audit, including workers going on trips with children, which I find quite bizarre. To me, this in fact is very unethical, and I really hope that perhaps the PC critic could probe into it. To me, it's really questionable that it's this close of a relationship.

(5) I have questions as to the subsidies here in this bill. I'd like to know: Why are they going to be given to stranger adoptions? Grandparents have been fighting for a long time to get proper funding. I hope that these subsidies are going to be given to kinship care. Subsidies in the United States, for example, have resulted in numerous problems, including, in fact, a rash of child murders because strangers adopters have, unfortunately, sometimes adopted for nefarious purposes and simply for money.

Finally, if the Ombudsman is going to be barred from investigating, what I would really, really ask the committee to consider is, could we have the Integrity Commissioner review this matter? Or, if the CAS is actually exempt from that particular office, perhaps the ministry could be under some type of a criminal probe, along with the Toronto CAS in particular, considering the previous audit; or perhaps we could have a public legal inquiry before the past is able to repeat itself, which is really a chilling thought and a dire concern for many.

Finally, the horror of the system, from what I have seen in it, literally keeps me awake at night. There has been profound and widespread damage due to adoption. I'm very, very concerned about this bill. I'm asking, in fact: Please stop this bill and prevent thousands of children from being adopted needlessly or being farmed out to abusive strangers so that, in my opinion, greedy baby brokers, CASs and others can profit. This bill seems to not really be about children; it seems to be about adults, which I find really sad.

Thank you for your time. I hope you will do the right thing. I'm also going to prepare a written submission.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Patterson. There's just time enough left on the clock to thank you on behalf of the social policy committee for your deputation, which has come to us via conference call. Thanks again, and we look forward to your written submission.

EXPERT PANEL ON INFERTILITY AND ADOPTION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Cardozo, CEO of the Ontario Trillium Foundation, representing today the Expert Panel on Infertility and Adoption. Welcome, Mr. Cardozo. Thanks for your work at the Ontario Trillium Foundation, and please begin.

Mr. Robin Cardozo: Thank you, Mr. Chair. It's a pleasure to be here. I believe I have met many of the members of the committee as part of my role at the Ontario Trillium Foundation. But really, as you mentioned, that is not the capacity in which I am here today.

I had the privilege of being appointed by the Minister of Children and Youth Services a couple of years ago to serve on the Expert Panel on Infertility and Adoption. The panel, as I think you know, was chaired by Dr. David Johnston, who today is Canada's Governor General.

I think the experience on the panel was one of the most satisfying in my professional life. Every member of the panel was able to bring together our professional experience as well as our personal passions.

In my case, my own personal journey has included my experience as an adoptive parent. Ten years ago, my partner and I adopted two children from an Ontario children's aid society. At the time, they were seven and five. Today, they are 17 and 15, with all the wonders and all the challenges of teenagers.

Going through the process, I was struck by a couple of things: number one, how difficult it was for my partner and myself, two relatively well-educated Ontarians, to access the information we needed; just to find out how one goes about adoption. Once we got into it, we were also struck by how many older children are the responsibility of the CASs and, of those, how few were available for adoption by Ontario families.

So I was delighted with the legislative changes put forward by the Minister of Children and Youth Services in the Building Families and Supporting Youth to be Successful Act, specifically the change that will allow many children to be considered free for adoption and to

be adopted without losing the ties that are so meaningful to these young people—in many cases, ties to birth families and others whom they have had an association with for all their young lives.

My own observations as a private citizen going through the system and the research that we did at the expert panel brought home to me that there are thousands of young people who just want the stability of a forever home. There are countless families, just like my own 10 years ago, who want to open our homes and our hearts to waiting children. The journey was not easy.

If this legislation is enacted—and I certainly encourage you to do so—more than 70% of the 9,000 crown wards who were previously not considered adoptable because of the existence of an access order will now be considered and will be available for adoption.

Other changes in the legislation will make it easier for many 16- and 17-year-olds, as has been pointed out by earlier speakers, to return to the CAS and become eligible for financial and other supports. I understand that other changes being proposed will include better access to information about adoption for Ontario families; more frequent adoption resource exchange—ARE—gatherings; and portable home studies and reduced wait times for many families. The length of time just waiting for a home study is most frustrating, particularly when you know that there are children waiting on the other side. Being able to speed up that process, I think, could make a huge difference. And a review of adoption subsidies: again, an issue that we spent some time reflecting on in our report.

Taken together, this is a package of legislative and administrative enhancements that have the potential to change the lives of thousands of young Ontarians for the better. The benefits for these individuals, for their families and for our communities are enormous.

Speaking on behalf of my colleagues on the Johnston expert panel, I believe I can say that the members strongly support the proposed legislation. Our vision on the panel was that Ontario should aim to be the best jurisdiction in the world to build a family. I believe that the proposed changes will help to firmly move us toward that vision.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Cardozo. About a minute and a half or so per side, beginning with Mr. Prue.

Mr. Michael Prue: Some of the people have talked about the time frame for an openness order. Is 30 days enough to contact a parent who, thereafter, might lose their child forever?

Mr. Robin Cardozo: Speaking from my experience at the expert panel, we did not have a position on that, so I would actually defer that and say that I don't have a position on that. I would, in many cases, defer to the professionals in children's aid societies, who I think are closest to those families.

Mr. Michael Prue: One of the recommendations you did make was about having sufficient monies given to people who adopt, particularly children who have exhibited problems or who have problems. There's nothing in the legislation that provides for that. Is that disappointing to you?

Mr. Robin Cardozo: There is nothing in the legislation that provides that, so that's a fair question. The minister, as I understand it, did announce in her announcement to the House that a number of the pilot tests that are under way in a number of CASs will be studied in the course of developing something—a process, I guess—that is revenue-neutral. We did have a recommendation in the report that suggested that appropriate subsidies would be in the range of 50% to 80% of the current amount provided to crown wards. From the expert panel's point of view, we stand by that recommendation, and we are hopeful that that will be developed as this review gets under way.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Colle?

Mr. Mike Colle: Thank you, Mr. Cardozo, and thank you to you and all the members of the panel who served on this for about two years, if I'm not mistaken, and certainly Governor General Johnston—if you could pass on the appreciation of the time that you citizens gave.

I guess the question I have is: How do we, as a government or society, get more people who are willing to adopt and are financially, emotionally and lovingly capable of adopting children—how do we get them to think about adoption seriously? What barriers are there and what can government do to break down some of those barriers so these people will adopt a child?

1710

Mr. Robin Cardozo: We spent quite a bit of time reflecting on this at the expert panel. I might, perhaps, add my own personal experience. I think the biggest barrier is a lack of information. I'm constantly struck by the number of families who go overseas—to China, Russia, Ethiopia and other countries—looking for a child. When I tell them that our children were born in Ontario, they're actually shocked. When I tell them that there are a number of, particularly, older children—over the age of two or three—who are available in Ontario, they're often shocked. So I was very pleased to see the minister say that part of what was going to be done was developing websites and other information tools that would provide more information to Ontarians. Personally, I think the biggest barrier is a lack of information.

The Chair (Mr. Shafiq Qaadri): Ms. Jones?

Ms. Sylvia Jones: Thank you for your report. I as well have heard about those barriers: lack of information and inconsistency, depending on which children's aid society you're dealing with. Are there some specific suggestions that you would like to see brought forward as we review and bring forward amendments on Bill 179?

Mr. Robin Cardozo: A couple of specific suggestions—again, I was very pleased to see that the AREs will be expanded from twice a year to four times a year. There's a wonderful website run by the Adoption Council of Ontario: AdoptOntario. In many of the jurisdictions that we looked at, kids were actually much more—in a

discreet and appropriate way, there was information about available children on websites. I think the Adopt-Ontario website has huge potential that has not been fully developed.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Mr. Cardozo, for your deputation.

MR. NEIL HASKETT
MS. TABATHA HASKETT

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward: from Sudbury, via conference call, Mr. Haskett and Mrs. Haskett. Are you there?

Ms. Tabatha Haskett: Yes, we are.

The Chair (Mr. Shafiq Qaadri): Welcome to the social policy committee. You have exactly 10 minutes in which to present. I invite you to please begin now.

Ms. Tabatha Haskett: Thank you. Bill 179 concerns us for many reasons, first and foremost because we were wrongfully accused parents and nearly lost our identical twin girls to our local CAS because of lack of oversight and accountability.

Our first question to the committee is: With the current lack of oversight, we would like to know how the government can guarantee that any child who is wrongfully apprehended will not be adopted. We would like to bring to the committee's attention the current complaint system that is in place. I heard in the introduction of Bill 179 that if there was an issue with a child who is being adopted, the family can file an affidavit to the court within 30 days. We find this to be unacceptable because here is how the complaint will go: If you call the society to complain, the complaint will go nowhere. The society will become combative, and this complaint also is used against you in court.

Let's talk about the CFSRB, the Child and Family Services Review Board. They state right from the beginning that they will not hear anything that is currently before the courts or matters that have already been decided. As well, they will not listen to any matters that fall under other decision-making processes, which includes every single child protection case. This board is not a form of accountability.

Our second question with regard to complaints mechanisms, goes to the Ministry of Children and Youth Services: Has anyone ever tried to file a complaint with the ministry? I can say that we have. I have personally gone to the local offices as well as called the ministry and tried to file a complaint. Each time, they always say that all they deal with is funding, not complaints.

Our next question: It's also stated that the Ombudsman has oversight over the ministry as well as the CFSRB. If we, as parents, foster parents, foster children or a child in kinship care cannot complain to these mechanisms, how can Mr. Marin do an adequate job of oversight when clearly he has been blocked from ever hearing any complaints?

So it is a lie when Ms. Laurel Broten or any MPP states that there are oversight matters before the courts. There is case law that states that CASs do not have to follow judges' orders. The CASs, even when ordered to return children, have refused to do so. There is nowhere to turn to complain. This is a miscarriage of justice committed by the CAS and Family Court. This Bill 179 will only serve to break apart Ontario families, deeply affect the mental health of children and scar them emotionally in a permanent fashion. That is why this bill worries us.

Five years ago, my husband and I were wrongfully accused. Because, in the Family Court system, there is no factual evidence needed to convict someone, our case dragged on for two long years because of out-of-control workers acting in bad faith, heartless supervisors and an absent executive director who had chosen to turn a blind eye to our complaints. We were labelled, ridiculed, harassed, assaulted and embarrassed countless times while we were gathering evidence by audio and video taping. We were told through a court order that we had to stop recording the interactions that we had with the workers, which is against the law.

It was a sympathetic court staff who took us aside and explained to us that no one in this town would ever represent us because we were fighting to prove our innocence. He was the first person to listen to our complaints. Then he explained to us how to file private charges against these workers. If it were not for him, we would've lost our daughters to a wrongful adoption. The crown leaked our evidence to the CAS. Then the CAS suddenly went from wanting to have our girls placed as crown wards to immediately vacating our case and giving us our children back with no supervision order.

Moving on to the statistics that are currently available from the 2003 child abuse and neglect investigations in Ontario, it states that the number of substantiated cases was only 44%. Within this statistic, we have to keep in mind that this includes disgraced pathologist Charles Randal Smith's victims and also Gregory Carter of Whitby, who was also an unqualified person who the CAS was using with allegations against parents.

Without transparent, accountable public knowledge of what is really going on, how can the Ministry of Children and Youth Services or adoption charities push Bill 179 with a clear conscience? There have been numerous cases of sexual predators working as foster parents and adoptive parents. The CASs seek gag orders in courts to prevent the public from knowing to what extent this takes place. These cases are rampant. We want to know why most of these cases have gone unreported, why the CASs have sent in their lawyers to protect these predators' identities and why the minister won't release the real statistics to the public.

With this knowledge in hand, it is unacceptable to know that Minister Broten wants to adopt out more children. We cannot support Bill 179, knowing how many children have lost their culture, their identity, their family and their friends. We will not support Bill 179 knowing

that there are too many children who were not abused at home but were abused once in care or even died in care.

To reiterate my question from before, what are the minister and the ministry going to do that will guarantee wrongfully accused parents will not permanently lose their children to adoption? My suggestion to the Ministry of Children and Youth Services is this: First and foremost, allow the Ombudsman real access to complaints within the CFSRB, the Ministry of Children and Youth Services and the CASs.

Lastly, instead of removing children from a home due to a poverty situation and then paying a foster parent money, how about the Ontario government and the children's aid societies across Ontario help that family out instead with that money? Employment insurance does not cover families' living expenses; this is general knowledge. It is these families that are more likely to have involvement because they are an easy target for CASs. It is time that CASs maintained their mandate, which is to preserve families first and protect children.

What we ask of this committee is to listen to foster children who have been negatively affected by the lack of safety nets in the child protection system. Their stories are real. Their stories are painful and traumatic. These are the children who are negatively affected by the system that is originally designed to help them; who ended up hurt instead. There should be no such thing as collateral damage when it comes to Ontario's children.

Let this go on record to all political parties, especially the Minister of Children and Youth Services: You are responsible from this point on, especially if this bill gets pushed forward, for any negative outcomes that are sure to follow from your new and improved 1960s scoop. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Haskett. We have about a minute or so per side beginning with the government. Mr. Colle?

Mr. Mike Colle: I just want to thank you for your presentation. I appreciate the tragic situation you were in. It is very, very, very difficult to accept that that treatment did occur. Again, thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Ms. Savoline?

Mrs. Joyce Savoline: Just, Mr. Chair, to thank the Hasketts for sharing some very personal information. It's valuable information for the committee to have to go forward.

The Chair (Mr. Shafiq Qaadri): Mr. Prue?

Mr. Michael Prue: Yes. You appear to have had a great deal of difficulty, for some two years, with the courts. Would it have helped immensely had the Ombudsman had some form of oversight over children's aid societies?

Ms. Tabatha Haskett: Oh, we absolutely believe it would, because we would have had an adequate place to complain to. Every time we tried to complain, our situation only got worse. It escalated every time. It was like something from a horror movie. I would have loved to have had the Ombudsman to complain to. He would have been able to make adequate recommendations that would have changed the situation dramatically from what we were in.

Mr. Neil Haskett: And keep it from ever happening again.

Mr. Michael Prue: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thanks to you both, Mr. and Mrs. Haskett, for your deputation to the social policy committee of the Parliament of Ontario.

MS. DARLENE HACHEY

The Chair (Mr. Shafiq Qaadri): Now I invite our next presenter to please come forward: Ms. Darlene Hachey, with your expert guide there. Welcome, Ms. Hachey. Please be seated, and please begin now.

1720

Ms. Darlene Hachey: Hello, committee members and guests. My name is Darlene Hachey, from Windsor, Ontario. It is an honour to have been given this chance to speak on Bill 179 today. I am an advocate for grandparents and children across Ontario, a Cangrand leader.

Let me start by saying that looking back, people have always looked to their ancestors. Older people taught the young to respect, love and survive challenges by listening, looking and doing, sharing traditions and values. Everyone has family roots, and they start when a child is conceived. These are brothers, sisters, mothers, fathers, aunts, uncles and grandparents. We teach what we have learned to future generations. We shared food, clothing, money and our homes. Elders had knowledge from learning and living. Extended family always knew their children's children and had a great influence on them. Their hearts were bonded together. That helped kids across families connect. Grandparents were of the most importance, teaching culture and giving love and support when the parents were busy. The doors were always open to relatives, neighbours and friends.

Lifestyles today are somewhat changed for so many. Family crises have caused some family bonds and structures to fall apart. Increased rates of divorce, single parenting, job losses and addictions have created problems financially, physically and mentally for so many families. Many children are often left torn, lost and confused, not understanding why they have been taken away from parents and grandparents they love. Grandparents have always come to the rescue—financially, emotionally and physically—bringing comfort, care and so much love and joy, and lessening the pressure and burdens of the child. Extended family has always been proven to produce a well-balanced, productive child.

Because our children are grown does not mean they are no longer our children, and once they become a parent, we become a grandparent. We have earned the word "grand" in front of "parent" because of knowledge, trial and error, mistakes we have learned from and corrected along the way. These grown children also deserve a chance, and if need be, grandparents should be able to help raise and care for these grandchildren.

Today, we have been challenged by our government. We have been turned down to push Bill 22 into third reading, an amendment to the Children's Law Reform Act in the best interests of a child so the child could see their grandparents. Other provinces across Canada have passed this into law, and this has still been sitting on a shelf waiting for third reading. We have been turned down for oversight to get accountability. We are being denied records, yet this law is supposed to be in the best interests of the children—taking children and putting them in foster care with strangers, when they could be with their grandparents.

The point I'm trying to get across is, what is in the best interests of these children? These children have been born with an identity. Taking a child and adopting it out in 30 days after being a ward does not even give a family member a chance to prove themself. Grandparents or other family members have not even been put in Bill 179, yet you're so fast and willing to give children up for adoption.

This is a fast fix, making more children, in turn, rebel. Children always deserve family first or extended family. I am not here to point a finger at any one of you or to judge any one of you. We all have dysfunction somewhere in our lives, and actually putting our children's children to another parent, adoptive parent—we are all human: Who says they are in the best interests of that child? Who is to say they have no dysfunctions?

I have always said that becoming a grandparent is the best gift I have ever received, and it should never be taken away. My grandchildren are not for sale; I'm sorry. They are my life. They are my children's children. They are my family. This Bill 179 does not have children's best interests, and it is a fast, 30-day solution to a bigger problem down the road. Where do grandparents fit in here? Our grandchildren are our family. My father fought for freedom; I feel government is taking our freedom away.

How many of you here are grandparents? What gives me the right to tell any one of you that your grandchild is better off in an adoption?

Kim Craitor has presented this bill for six years now and it's still sitting on the shelf. I was here at second reading in September, to allow grandparents to see their grandchildren in their best interests, and it still sits there. Yet other provinces across Canada have put this bill through; four in the United States this year. I see nothing in Bill 179 for grandparents. Grandparents are most important in these children's interests, and even in our own children's.

Any questions?

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Hachey. About a minute or so per side, beginning with Ms. Savoline.

Mrs. Joyce Savoline: No questions, thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Prue?

Mr. Michael Prue: Just a question. In discussions with Mr. Craitor, has he given any indication why his party doesn't want this bill to go forward? You're making a lot of sense.

Ms. Darlene Hachey: It's been sitting at the standing committee waiting for third reading. We've had over 10,000 signatures; we've had mayors and city councils endorse it. It's just been sitting there and it sat there—this is the sixth year. It sat there before. When an election comes up, it dies. There's no reason. It's been proven that grandparents and extended family are in the best interests of these children. We have no idea. Maybe you could ask the government.

Mr. Michael Prue: We have. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Colle?

Mr. Mike Colle: Thank you. As a grandparent, I'm going to ask you a question. I've got five grandchildren. Which provinces have adopted this legislation? Do you know which ones?

Ms. Darlene Hachey: I had it written down but I didn't—

Mr. Mike Colle: I can get it from—

Ms. Darlene Hachey: But the majority of them do, and I know Quebec has the strongest law: that for no grave reason should grandchildren not see their grandparents.

Mr. Mike Colle: Yes. Anyway, I'll find that out from Mr. Craitor. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Hachey, for your deputation.

WATERLOO REGIONAL FAMILIES UNITED

The Chair (Mr. Shafiq Qaadri): I now invite Mr. Carter on behalf of Waterloo Regional Families United. Please come forward. Welcome.

Mr. Chris Carter: Hello, Mr. Qaadri. I don't know if you remember me, sir. This is my third time presenting to the committee.

The Chair (Mr. Shafiq Qaadri): I'd invite you to officially begin now, Mr. Carter.

Mr. Chris Carter: Yes, sir. Every time that I've presented I've presented specifically on the issue of the children's aid societies' ugliness, their fraud, their criminality, but more than anything else, their unspeakable immorality.

Let's be honest. As much good as the children's aid society does from time to time, the issue of the damage that they do is very significant and, for whatever reason, has been refused to be acknowledged by the provincial government and by the establishment of Ontario. Let the record show that I'm showing the universal sign for greed and money, because I believe that is the reason why you are failing to address the issues of CAS ugliness, criminality, fraud, malfeasance, and the unnecessary brutality and destruction that they perpetrate against children and families on a regular and daily basis.

I swear to tell the truth, the whole truth and nothing but the truth, so help me, God.

My name is Chris Carter. I'm a soon-to-be 45-year-old father of four children: Mei, Connor, Liam and Colton. The children have been used and abused as commodities

by the Cambridge office of the Waterloo regional children's aid society since the unlawful apprehension of the three older children from my care on Friday, July 21, 2006.

In preparation for what became a 22-day trial at the children's aid society's business partner, the Ontario Court of Justice, I learned that the unregistered so-called social worker who apprehended the children, a Paulette Kane, had, in effect, been hunting the children and I for close to a year prior to pulling the trigger on the apprehension. Ms. Kane did not like the fact—could not stomach the fact—that three children were being raised in a post-marital separation, father-led family unit.

At the date of the apprehension, we were three weeks away from a Superior Court order which would have established shared custody of the children between myself and my former spouse, who is a Japanese national, with primary care and control of the children to me. Ms. Kane could not stand the fact that a father would end up with primary care and control of children and she, in a vicious and criminal abuse of power, apprehended the children from my care.

1730

Now, I wonder if any of you gentlemen who were present for the second reading and defeated vote on Bill 183, the Ombudsman's amendment act, last Thursday, May 5, recognize my voice. After the Speaker announced the defeat of the vote, I was the attendee who was up in the seating shouting, "You're out in October, Liberals," "Broten, you are the child protection threat," and "Disgusting." Obviously, at that time, considering the Liberal government's actions, I spoke very, very euphemistically.

The Liberal government's defeat of Bill 183, which was the NDP's third attempt to give the Ombudsman the authority to investigate complaints against the private CAS corporations, is an issue of morality. The government demonstrated that not only is it not moral; it's not even wise. You should have passed that bill and allowed it to come to committee, at least, to give us an opportunity to voice our complaints. The fact that you didn't, I hope, is going to have severe consequences for you on October 6.

The Dombroskie children from the region of Waterloo, Jeffrey Baldwin, Randal Dooley, Jordan Heikamp and many other children whose painful deaths can be directly attributed to the callous disregard or incompetence of the CAS and its workers deserve to be avenged. The government and the establishment of this province have failed to do so.

On April 4 this year, 30 of us gathered outside the Ministry of Children and Youth Services' office. The Ministry of Children and Youth Services locked down their Wellesley Street office. Approximately 15 police officers were there to keep us from gaining access to that office. Later on in the day, two of my compatriots and I met with two senior Catholic Toronto CAS staff in their office. One of the questions I asked was, "How many times have the CCAS workers responsible for Jeffrey Baldwin's death been promoted since their tragic failure of Jeffrey?" The staff refused to answer the question, which was in fact an answer in and of itself.

On April 4, later in that day, we visited with a Miss Denise Cole, who is a veteran government of Ontario bureaucrat and who is the executive lead of the government of Ontario's woefully inadequate red herring, the three-year commission to promote sustainable children's aid societies. In answer to my question, Miss Cole stated that the commission would not be exercising its option to hold public hearings. She stated that they had determined that public hearings would be cost-prohibitive. Miss Cole was of course merely following the direction established by minister for women's issues Broten, who, as you know, also has the second portfolio of Minister of Children and Youth Services. Minister for women's issues Broten, during the 2010 mandatory five-year review of the Child and Family Services Act, also refused to hold public hearings. Public hearings are not held because of your fear of the truth of our experiences being registered.

Now, speaking of minister for women's issues Broten, what message does it send to the male children in the so-called care of the CASs that the government minister responsible for their so-called care has so offensively prioritized female issues over male issues, and why haven't you male Liberal MPPs been able to muster up the wherewithal on behalf of your male constituents involved in CAS-controlled child custody disputes to assert that MPP Broten relinquish her minister responsible for women's issues portfolio? Is it the intent of minister for women's issues Broten to prioritize achieving improvements for female crown wards over male crown wards? What other conclusion can we reach?

Recently in the Legislature, MPP Broten has been making numerous statements with regard to independent oversight of the CASs. Most offensively to our families, minister for women's issues Broten has very fallaciously claimed that the Ontario Court of Justice has oversight of the CASs. Give me a break. This is an ugly lie.

The evidence establishing that the Ontario Court of Justice is nothing more than the children's aid societies' subservient business partner is heavy. Just a couple of examples: The Ontario Court of Justice has been deliberately withholding judgements from some of its most deficient judges, judges who are openly aligned with the children's aid societies. There is a wicked one in the city of Cambridge by the name of Paddy Hardman. The Ontario Court of Justice has been deliberately withholding her decisions and other judges' decisions from Internet law databases. This has been established via correspondence between myself and the Ontario Court of Justice's Office of the Chief Justice executive senior legal counsel Ms. Susan Kyle. I've copied many of you MPPs with those letters.

Also, the Ontario Court of Justice alleges to be an entity that has been adjudicating CAS cases since 1975. Why, in that case, has this $110-million entity only produced two reports, a 2005 annual report and a 2006-07 biennial report? There have not been any other reports, and I'll submit to you that the reason is obvious: because

covering up the fraud that they and their CAS business partner have been perpetrating against the children and families of this province is not as easy as they would have thought. That is why they are so late and so behind schedule on issuing this next report.

You heard Michele from the Foster Care Council of Canada, you heard Ms. Anne Patterson, and you heard the Hasketts confirm what I am saying about the ugliness, the manipulativeness and the exploitativeness of the CASs. How dare the government—

The Chair (Mr. Shafiq Qaadri): Mr. Carter, with respect, I'll need to intervene there. That is the full 10 minutes. I understand that you will be furnishing the committee with a written submission, in addition to the materials that you have. I'd like to thank you on behalf of the committee for coming forward today for your deputation.

Mr. Chris Carter: I welcome questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Carter.

MS. REBECCA DAVIDSON

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Rebecca Davidson. Please begin.

Ms. Rebecca Davidson: My name is Rebecca Davidson. In February 2009, I was put in the foster care system, where I spent the next four months of my life. I am from Cambridge, Ontario. CAS destroyed my life. I am 15 years old.

I remember taking one last look inside my house with my mom, who tried to tell me everything was going to be okay. Even then, I knew she was going to have a hard time fighting the power of CAS. I held on to my little brother's hand, promising to protect him, thinking I was never going to let go of his hand. But let's face it: I don't have the power. We, the children, are not heard. You have given all this power to CAS, which they twist and use against families. They are not in it to help families; CAS makes their money on separating and destroying families—and it's because you have given them all this power.

You are responsible for this ongoing baby-snatching crime, and now you're just going to give them more power because they have successfully used all the power you have given them so far. They say they're in it to help, and you take their word for it. In reality, behind the shut doors of the hundreds of foster homes and group homes, you have no idea what's going on. We, the children, the ones you are helping with this bill, are not heard. Our stories of abuse are not told.

In my family's case, my story is filled with lies from the children's aid society of Waterloo region, and it's because you have given them this power. You are responsible for how I was unlawfully taken from a loving home. You hand out all this power to CAS, and it's not helping families. They're no longer trying to keep families together, but to separate and destroy us.

When you are put in the foster care system, you are disconnected from all your family. Even if you have a bad mom or dad, that doesn't mean that all your family is bad. When I was in care, my dad still had custody of my brother but wasn't allowed any contact with me. I had visits twice a week with my mom and my brother, no other family. All the other family that I grew up knowing I had no further contact with for the four months I was in care.

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You can't ever find a worker when you're in foster care. Everything needs worker approval, like field trips or sleepovers or going to friends' houses, but you can never find one. You are constantly given new workers and expected to trust them, even though they're trying to take you away from your family. Sometimes you have no worker. One would change and you would have no worker for that time, and your request cannot be processed until you get a new one.

The entire time you are in foster care, you, as a child, are not informed. Lawyers can only say what happened in court; workers never say, and if they do say, their information is often biased. When I was visiting my mom, it was said to be inappropriate to talk about what was going on. I had no idea where my brother was. I'd just hope he was okay.

Even when family offered to take you in, they were never approved. My grandma offered; my great-aunts offered. I had lots of family that offered to take me in, but the CAS deemed them unacceptable to be fit parents for me.

While I was in foster care, there were a lot of things that negatively impacted my life. I stopped going to church because my family went to church, and I was not allowed to see my family in the church building. When I was in school, I found it really hard to start focusing; there were more important things on my mind. When you're in foster care, you're surrounded by kids who have smoked pot and are thieves and criminals. These are the people who impact your life; these are the people who are your role models. Are they good role models? Do you want your kids around thieves, criminals and potheads?

Conditions in homes: You guys have no idea what goes on there. In my foster home, I was more like a slave. There were so many chores, and you weren't equal with the rest of the blood family that was there. There were strange rules, like having to change with the door open. Head lice were a major problem, and sheets weren't changed in between kids.

When I was in my group home, I was surrounded by older girls—criminals, druggies, thieves. While I was in my group home, I tried out drugs. I walked down a really bad path. Since then, I've tried to fix it. Group homes are not family-oriented. You become very independent at a very young age and you do things like cook your own meals.

If Bill 179 is meant to help kids, how come so many are unaware of what you're trying to pass by them? Even

as a teen, when I looked into it on my own, I found this bill very hard to read. It takes a lot longer than 30 days to apply for all this, and it sounds like you're just trying to buy kids off, giving them laptops: "Sorry, you won't ever see your family again, but here's a laptop, here's some money."

Don't you think that before a bill like this passes, someone should take a look into what happens in foster care? After foster care, most kids go home anyway. You're shortening the time that parents have to keep communication and a healthy relationship with their kids, so you never get to talk to your kids again. Are you okay with that?

No kid should lose somebody they have become accustomed to in their lives, they have come to rely on. You guys are taking that away from them. You are taking all their family, not just their mom or dad; you are taking grandparents, aunts, uncles and cousins away from them.

The "forever" families: How about the families they were born to? Surely, if CAS really wanted to help kids, there has to be a way without removing them from their families. There is no perfect family. Everyone has the right to try to the best of their abilities. Who are you to take that away?

They want more money to look after troubled teens and teens who have problems, but, in fact, most kids never see this money. There are 9,000 crown wards. You're telling me that of these 9,000 unfit parents, none of the family is okay to be guardians—that they all need to be given to strangers? To me, this just doesn't seem right.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Davidson. There's still time for questions, about a minute or so per side. Ms. Savoline?

Mrs. Joyce Savoline: Just to say thank you so much for sharing your story with us. I'm sure it took a lot of courage. I wish you the very best as you proceed in your life.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: Your pain is very real and we all can feel it.

Have you gone back to your family or do you intend to?

Ms. Rebecca Davidson: After four months, I was given back to my family by a judge, because there was no actual reason for me to be taken away from my home, there were no opposing threats. Since that, I have been with my mom.

Mr. Michael Prue: And have things worked out okay?

Ms. Rebecca Davidson: Yes.

Mr. Michael Prue: I'm glad to hear that. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Colle?

Mr. Mike Colle: Thank you very much, Rebecca. You're very brave to come here today. I know it's not an easy place to be, but certainly, by you coming here, you're certainly sharing a very, very important series of good information that hopefully will help. I do appreciate you expressing your very, very tragic situation, and the courage you exhibited is really commendable. Thank you for coming, Rebecca.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Davidson, on behalf of the committee.

MS. CATHERINE FREI

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Catherine Frei.

Welcome. Please be seated and please begin.

Ms. Catherine Frei: Good evening. Thank you for the opportunity to speak today.

My name is Catherine Frei and I'm from the Waterloo region. My dealings with the Family and Children's Services of the Waterloo Region are what have brought me here today. I'm also a justice reporter for Canada Court Watch, and I have actually interviewed dozens of current crown wards as well as former crown wards. I have attended court with other parents and I am intimately aware of what goes on within the family courts.

In December 2008, my two children, who were at that time 14 years old and 20 months old, were taken from me. I can assure you that right from the beginning their plans to make them crown wards were made very clear to me.

The treatment that I received from the worker and the supervisor was less than desirable, and when you look at the role that a social worker has in society, these two individuals' actions were in very sharp contrast with what one would expect. Perhaps this is why, even though both of them have social work degrees, neither one of them are registered social workers—which is a big issue, actually, if you look at the unlawful act of practising social work when you're not registered. I can't really get into that; not enough time. But a child protection worker has only one role, if you look at the law, and that's under section 40: that is the initial apprehension to take the child to a place of safety. Beyond that, they should not be dealing with any family any further than that. It should be a registered social worker only.

On many occasions, they did their very best to incite anger and frustration in me, in an attempt to have me react. Thankfully I caught on to that game early on. Only being allowed three hours a week with my baby was painful and difficult for my son and myself. When I did see him, oftentimes he looked unkempt. I would have to clean and trim his nails. He just basically was not being well taken care of.

The moment my little guy went into care, he stopped talking. Only at visits with dad and I would he talk and, of course, the society made sure in court that dad and I were accused of being responsible for his speech being delayed, even though all medical records prior to his apprehension indicated that he was right on target for his age.

Also, one incident I'd like to mention is a cancelled visit that I had—and they did that often. Then, of course, when I got to court, it would be me who had cancelled

the visit. He showed up after the cancelled visit, and dad and I discovered eight large bruises between his neck and his waist, side to side across his back. For five days, I called relentlessly trying to get an answer as to why my son, who was two years old at the time, was covered in bruises. Five days later, another worker had looked into it, and when I requested that he see a doctor, I was told that wasn't up to me, it was up to them, and he was fine; he had slipped in the bathtub. And I said, "Did he slip in the bathtub eight times? Because I don't understand how a child can have eight visible bruises scattered all over his back from one fall in a bathtub."

My daughter's access was fair at the beginning, and then the last year of my 720-day battle she did not speak to me or have any contact at all. Today, I see her and speak to her a few times a week. My parents and the society were facilitating parental alienation, and as I have since discovered, bribed my daughter. When I asked my daughter why she chose to become a crown ward—because she now lives with my mother as a crown ward—her answer was, "I will get a better education, and Opa and Nanny have promised me a brand new Honda."

As for Ms. Broten claiming that the family courts have oversight over family court matters, that is a complete and utter lie. I had to fire one legal aid lawyer in court who is now under investigation by the upper law society due to many cases, not just mine.

I had a court appearance on July 13 of last year, and that resulted in my filing a judicial complaint. That judge is now being investigated. I don't think they had much choice, since I exercised my right under section 136 of the Ontario Courts of Justice Act and I recorded my proceedings in their entirety. That judge had their mind made up prior to my entering the courtroom. It was the most disgusting and pitiful display of so-called justice I've ever seen, and even my lawyer, who has been practising for 30 years, said they've never encountered anything like it.

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The charter, in section 7, states, "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

I did not take my son for a walk outside for 657 days; I was denied to take my son outside of the building. They very promptly turned around and not only gave me outside access—very liberal access—and within six weeks of that time, my son was returned to my care; they actually withdrew their motion for a summary judgment. The reason why was that they found out that I'd been recording them for a year: every phone conversation, every visit with my child, every court proceeding. That was the only thing that saved me and my family.

I have spoken to many parents who have been physically searched for recording devices. My question is, you are recording access visits—access visits too are another sticky topic. I don't understand: If an assessment is considered evidence in court, then why have we got the fox watching the chicken coop? Why are people having their visits inside a facility being watched by people who are employed by the children's aid society, who have a vested interest in the outcomes because that's what produces their paycheque?

It's funny: Rebecca spoke about not going to church anymore. My visits were inside of a church. I have my grade 10 conservatory piano, and on a number of occasions, my son loved to sit on my lap while I played the piano for him. As soon as they started to see some of the joy and comfort it was giving him, I was told I was not allowed to do that anymore. I was met with opposition at every turn when it came to trying to do anything with my son, even making arrangements with a worker to take him out somewhere.

I was a full-time student—I just graduated from college—through this whole ordeal. It took me 10 days shy of two years to get my child back, and this bill here would put a parent in a position where they have 30 days to do that. For this bill to pass the way that it is would be completely reckless. I have to agree with Neil and Tabatha Haskett: This is just a new and improved 1960s scoop.

I honestly do feel that at some point down the road, whether it's Mr. Harper or another Prime Minister—June 11, 2008, was when he had to apologize to the native people in this country for what happened in the residential schools—there will be a Prime Minister making an apology much the same to Ontario families for what has gone on just up until this day.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Frei. About 45 seconds a side: Mr. Prue.

Mr. Michael Prue: You spoke with great passion. I don't know what to ask, but is there anything else you wanted to say? I want to make sure you get everything out.

Ms. Catherine Frei: I really do feel that crown wards who don't have any extended family, if proper investigation has been done and it has been deemed that it's necessary for them not to live with biological family, should have opportunities to go to school and to have the supports there. I certainly have no issues with that part of the bill. I think I made clear the issues that I do have. I think there are serious amendments that need to be made.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Colle.

Mr. Mike Colle: Thank you very much for your presentation. Again, I just feel that you've gone through a very difficult time, and it's very courageous of you to come here today. Thank you for coming.

Ms. Catherine Frei: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Savoline.

Mrs. Joyce Savoline: The same as Mr. Prue, I just want to commend you, first of all, for coming to tell your very personal story. If there's anything else that you wish to tell the committee in the time that I have, you're welcome to do it.

Ms. Catherine Frei: Thank you for the opportunity. I think it's a very important issue that needs to be considered.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Frei, for your deputation.

Is our next presenter here, Ms. Andrea Armstrong? Going once.

YOUTHCAN

The Chair (Mr. Shafiq Qaadri): If not, then I would invite Mr. Diamond and Ms. Maitland of YouthCAN to please come forward.

Welcome. Thank you for coming forward, and please begin.

Ms. Jade Maitland: Hi. My name is Jade Maitland, and I'm a former crown ward of Brant CAS. I have two younger siblings who are also former crown wards of Brant CAS. Now I am a program coordinator for YouthCAN.

YouthCAN is a communication advocacy and networking program designed by and made for youth in care of children's aid societies across the province of Ontario. YouthCAN is supported by the Ontario Association of Children's Aid Societies and provides youth in care the opportunity to get together, to network and to learn. Youth develop lasting relationships, take part in new experiences and gain valuable skills. Most importantly, youth are empowered to use their voice to effect change locally, regionally and provincially.

One advocacy component of YouthCAN is the Youth Policy Advisory and Advocacy Group, YPAAG. The group was initiated following the Youth Leaving Care report of 2006 and after the youth presentation of recommendations for change at the June 2006 OACAS conference. YPAAG is designed to provide opportunity for interested youth in care throughout Ontario to use their voice by advocating, advising and policy-making, and putting forth recommendations to CASs, public officials, ministries and others.

Provincially, youth advocacy has focused on four main areas:

The age of eligibility: Provide protection to all children until the age of 18 and extended care maintenance to youth until the age of 25.

The second one is emotional support: Staying in foster homes past the age of 18 and more worker time once we turn 18, not less.

Educational support is the third one. Help us to get into and stay in post-secondary school, as well as help us to graduate high school.

Four is financial support: Help us to live safe and healthy lives while we transition into adulthood.

An overarching issue of agencies' and our system's culture towards youth is a major focus. The question, "What would a good parent do?" should be asked when making decisions and planning for the care of children and youth in care. Youth from CASs across Ontario take part in YPAAG because they are passionate about the issues. Youth commit to being contributing and productive members of the group, and work together to create a brighter future for youth in care.

Mr. Adam Diamond: My name is Adam Diamond, and I'm a former crown ward of Dufferin Child and Family Services. I have five younger siblings, and without the support of CAS, I don't know where we would be today. None of my siblings nor I had the opportunity to be adopted, so personally I'm excited about some of the aspects of Bill 179.

YouthCAN supports Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance. This legislation will remove barriers, making it easier for crown wards to find permanency through adoption. This bill is also a step forward in supporting youth who are growing up with child welfare involvement but who may leave care between 16 and 18. Many youth may now have the opportunity to return for supports.

Our requests for areas that need to be looked at in Bill 179: Our first one is to protect children in Ontario until age 18. While we agree that this bill will help allow more youth to return for assistance from their children's aid society, there's still a gap where children who have not had child welfare involvement are left vulnerable between the ages of 16 and 18. While a 15-year-old child experiencing abuse in a home would be provided protection services from a children's aid society, a 16-year-old is not eligible for help. We ask that you align the age of protection with other legislation—for example, Bill 52, the Education Amendment Act (Learning to Age 18)—and raise the age of protection to age 18.

Other provinces that protect until age 18, or 19 even, are Alberta, Manitoba, British Columbia, Yukon, Quebec, New Brunswick and Prince Edward Island. That's from Human Resources and Skills Development Canada's Child Welfare in Canada, 2000.

Raising the age of protection to 18 will keep more youth off the streets who are trying to escape abuse and neglect. It will help save many more youth and create healthier, safer youth all over the province.

Our second point is to ensure the door is kept open to all youth to return for support. Under the proposed legislation, youth who leave the care of a CAS must return before their 18th birthday to be eligible for that extended care and maintenance support. But how it is currently, if a child stays in care until age 18, after age 18 they are able to leave and come back as long as they sign an agreement with their agency. So we would ask that this bill be changed to ensure that youth who leave care still have that opportunity to come back at any point until their 21st birthday.

Our third point was to normalize the process of returning to a CAS for support. We feel that if children do decide to leave at the age of 16 or 17—which involves, usually, a court process—if the child does return, that it be an easy process, that it's as smooth a transition as possible. For a child who is returning to their CAS voluntarily and for good reasons, having to sign a new agreement or enter into a new program can be very scary and overwhelming. Returning to care should be easy and youth-friendly so that youth can come back without feeling like they will be reprimanded for leaving and coming back.

Our final point is that extending the age of eligibility for youth to receive extended care and maintenance from 21 to 25 continues to be a top-priority issue for youth growing up in the child welfare system. Youth in care are behind their peers in reaching educational milestones—on average, about two years behind. In addition, these youth have generally experienced significant trauma earlier in their lives. Many are just starting to deal with some of their past at this age, and we expect them to be fully independent. Other youth, who are not university- or college-bound but who need help just to complete high school and find a job, require longer support systems to help them stay on the right track and deal with any issues such as mental health or dealing with past traumas.

In conclusion, YouthCAN does support this bill as it acknowledges the importance of permanency in a child or youth's life and that the government is taking action to improve outcomes for this vulnerable group of young people.

The Chair (Mr. Shafiq Qaadri): Thanks. About a minute a side, beginning with Mr. Colle.

Mr. Mike Colle: I want to thank both of you for, again, an excellent presentation and for your success and for your achievement. I see where Jade—you have just completed a course at Mohawk?

Ms. Jade Maitland: Yes.

Mr. Mike Colle: Way to go.

Ms. Jade Maitland: Thank you.

Mr. Mike Colle: Adam, I see that you're very active. You won Canada's outstanding youth leadership award.

Keep being advocates. You're very articulate. You're passionate and you've walked the walk. Keep doing what you're doing, okay? Thank you very much.

The Chair (Mr. Shafiq Qaadri): Ms. Savoline?

Mrs. Joyce Savoline: I, too, would like to thank both of you for being here today and for giving us some comfort that there are some good things coming out of the system too. I wish you all the success in any of your endeavours.

The Chair (Mr. Shafiq Qaadri): Mr. Prue?

Mr. Michael Prue: In your time with the CAS, did you ever run into young people who, I guess, were a little headstrong, wanted to leave and then who turned around at 18 and discovered that maybe it wasn't such a good idea and then there was nowhere for them to go? Have you run into people like that?

Ms. Jade Maitland: I ran away at 17. I ran away to my uncle and aunt's house and I didn't get any support. Then I decided that I was going to move out on my own about six months after that. My worker, who had been there only about a year, decided that she would help me. She put me on independent living, which is not extended care maintenance but almost the same thing, just for younger youth who decide they're going to move out at 16 but stay with the CAS. I ended up staying with the CAS instead of moving out because of my worker. They provided me with financial help. Then my sister did the same thing and they did the same thing for her and helped her to stay with the CAS, get her schooling done. Yes, so I've come across it myself.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Diamond and Ms. Maitland, for your deputation on behalf of YouthCAN.

There are no further presenters today. Our committee is adjourned till Monday, May 16.

The committee adjourned at 1804.

ERRATUM

No.	Page	Column	Line(s)	Should read:
SP-22	SP-471	1	45-48	**Ayes**
				Hillier, Paul Miller.
				Nays
				Berardinetti, Dhillon, Johnson, McMeekin, Ramal.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 16 May 2011

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 16 mai 2011

The committee met at 1406 in committee room 1.

BUILDING FAMILIES AND SUPPORTING YOUTH TO BE SUCCESSFUL ACT, 2011

LOI DE 2011 FAVORISANT LA FONDATION DE FAMILLES ET LA RÉUSSITE CHEZ LES JEUNES

Consideration of Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance / Projet de loi 179, Loi modifiant la Loi sur les services à l'enfance et à la famille en ce qui concerne l'adoption et les soins et l'entretien.

The Chair (Mr. Shafiq Qaadri): Ladies and gentleman and colleagues, welcome to the Standing Committee on Social Policy. As you know, we're here to continue public hearings on Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance.

We'll begin with our presenters. As everyone will know, they have exactly 10 minutes in which to make their presentation. That will be enforced with military precision. Any time remaining within those 10 minutes will be offered to the parties for questions and comments.

An additional point to all individuals who are going to testify before us: We have an external television crew from YES TV that has sought and received permission from Parliament to make a documentary on this issue, on the children's aid society and, of course, the bills that are related to it. Any of you who do not wish to be filmed for that external television documentary have the right to refuse to be filmed. We would simply ask that you please specify that before beginning. I will also direct clerk Trevor Day to ask people individually.

ORIGINS CANADA

The Chair (Mr. Shafiq Qaadri): With that, I would now invite our first presenter to please come forward: Ms. Andrews of Origins Canada. Welcome, Ms. Andrews, and I would respectfully invite you to officially begin now.

Ms. Valerie Andrews: Thank you. My name is Valerie Andrews. I'm the executive director of Origins Canada, which is a federal non-profit organization advocating for approximately one million natural mothers and adult adoptees in Canada. We have some serious concerns regarding Bill 179 and appreciate the opportunity to present them here today.

Problem 1: Bill 179 is based on a report that did not include the key stakeholders in adoption. Bill 179 is based on the report Raising Expectations, which was tabled August 26, 2009, a report that did not include the key stakeholders in adoption. As a note, it must be stated at the outset that infertility and adoption are not related. Adoption is not a cure for infertility.

When the province of Ontario appointed this Expert Panel on Infertility and Adoption in 2008, it did not include natural families, adoptees, the Foster Care Council of Canada or any other appointees that would hold any opposing views or speak for the actual people who are affected by adoption separation. Those who are separated by adoption do not include prospective adoptive parents. Instead, the expert panel was made up of adopters, adoption lawyers, fertility experts, private adoption businesses, infertility support groups and others who represented only one point of view: people who have adopted or intend to adopt. This was a one-sided think tank with an agenda that has nothing to do with children but has everything to do with the desires of infertile couples.

The problem of infertility, although very sad, does not entitle people to form forever families at the expense of others. Adoption is no longer an altruistic institution; it's big business. In fact, it's a $3.4-billion industry in the USA alone.

At the time, Origins Canada wrote to Deb Matthews, the MPP, asking to be included in the panel, and received a form letter. We wrote to David Johnston, the chair of the committee, asking to be included, but were ignored. None of these responses were surprising to us, as the agenda of the expert panel was clear.

Even the title of the report, Raising Expectations, refers to increasing the number of children for infertile couples. We state for the record that Origins has no issue with supporting infertile couples with infertility treatments using their own eggs and sperm, but that our concerns deal only with the adoption issues of the bill and the trend toward the emphasis on the desires of people wanting to adopt being paramount.

In his report, Rights of the Child, the special rapporteur of the United Nations states: "Regrettably, in many cases the emphasis has changed from the desire to provide a needy child with a home, to that of providing

needy parents with a child. As a result, a whole industry has grown, generating millions of dollars of revenues each year, seeking babies for adoption and charging prospective parents enormous fees to process paperwork."

The special rapporteur was alarmed to hear of certain practices within developed countries, including the use of fraud and coercion to persuade single mothers to give up their children. Leaving out the key stakeholders in adoption is wrong, and speaks to the agenda of this bill.

Access orders: Bill 179 does not protect the rights of children and their natural families. Clause 141.1.1 of the proposed bill states: "(2) Where a society begins planning for the adoption of a child who is a crown ward, the society shall consider the benefits of an openness order or openness agreement in respect of the child."

Without Ombudsman oversight, the 53 children's aid societies in Ontario will continue to act with impunity in these matters. They will also have 53 different interpretations of the law. They will not hesitate to abandon access in favour of adoption, since they have a long history of being biased in favour of people hoping to adopt.

Origins Canada has received testimony from countless natural parents and adopted persons that supports the conclusion that the history of the children's aid societies in Ontario with respect to adoption includes the illegal detainment of children, using coercion to illegally obtain adoption consents, lying to mothers about the traumatic impact of adoption separation, withholding resources and information to mothers regarding their rights, and placing children in abusive homes, leading to injury and death—including my own child.

Evidence thus strongly suggests that the children's aid societies in Ontario cannot be trusted to uphold the rights of parents with respect to access. Bill 179 will expand their existing power to ignore the rights of natural mothers and extended family, all without the checks and balances of an Ombudsman or any other elected official to oversee their deeds. This is a step backwards, not forwards, for Ontario's mothers and children.

Clause 143.1 states: "(1) When a child is placed for adoption by a society or licensee, every order respecting access to the child is terminated, including an access order made under part III ... in respect of a crown ward." The United Nations Convention on the Rights of the Child states that "parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests."

Current access orders that are in place for crown wards have been carefully thought out by Ontario court judges. Terminating these orders goes against the court and against the right of the child to have access to his or her natural parents. This is a crime against children and a violation of the rights of the child which Canada has ratified—all of this so that infertile couples are free to form forever families without the nasty bother of a child's mother and family. Any current access orders in place by a court of law in Ontario must be upheld in the adoption of a crown ward.

Notice to natural parents: Bill 179 provides no guarantee of notice to natural parents. Section 145.1.1, notice, provides natural families with 30 days to apply for an openness order upon the notice of adoption of their child; that is, if they're in town, not on vacation, not in hospital or otherwise occupied. This section has been entirely created to terminate access to natural families for children, with no respect for the rights of children and natural families. Adoptions done in this way will cause many future problems. There will be many mistakes made in the lives of children and families for which this bill will be responsible. This section must be amended to more accurately reflect the rights of natural families.

Adoption: The problem is that Bill 179 frames adoption as a first resort, increasing adoption rates at the expense of natural families. With the introduction of Bill 179, a newborn baby with a mother who is arbitrarily deemed to be at risk will quickly become a commodity, and any chance for a troubled mother to regain her child will simply disappear. Her parental rights will be severed and the child adopted, all within 30 days. There will be no mechanism to ensure her human rights or parental rights are protected, that she is provided with the required resources or that she can present her case in court. This opens the door for more abuse of power by the children's aid societies to obtain a supply of newborns for the adoption market, and this will take us back to the baby scoop era of the 1950s and 1960s. Haven't we learned anything from those terrible times? Grieving mothers, searching children, closed records? Adoption is never a quick fix; it is a life sentence for those separated by adoption.

The true agenda of this bill is revealed when one reads that "No person or society" can apply for a status review if a child has been placed in a person's home for the purposes of adoption. This does not protect children; this protects adopters. Permanently separating mother and child should always be the very last resort in a civilized society, and only then if the mother poses some harm to her child which cannot be resolved—and only then when other kinship opportunities are exhausted. As the representatives from Children in Limbo have already presented in this committee, legal guardianships and kinship agreements are not being utilized enough to help children who have been taken into care and need protection in the province of Ontario. Modern domestic adoption is completely unnecessary to provide stable homes for children.

Adoption is not something to be encouraged by society; it is not an ideal to strive for. Supporting mothers and children should be the goal of modern society. Many countries are rethinking adoption and reforming adoption laws. Australia has decreased adoptions, and currently in Australia there is a federal inquiry into adoption practices and the damage done to mothers and their children by governments that support adoption. The Ontario government should be aware that this inquiry is coming to Canada as well, and many mothers and adult adoptees are already registering and submitting their stories to us.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Andrews. About 30 seconds a side, beginning with Ms. Jones.

Ms. Sylvia Jones: Your brief was very thorough. Thank you. I have no questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Prue.

Mr. Michael Prue: None, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Ms. Andrews, please be seated. Mr. Colle.

Mr. Mike Colle: I just want to thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle.

Thank you, Ms. Andrews, for your deputation on behalf of Origins Canada.

I'd just ask, is our next presenter available, Ms. Kelly Mackin?

MS. TRACY CLEMENGER

The Chair (Mr. Shafiq Qaadri): If not, we'll proceed to our presenter afterward, Tracy Clemenger. Welcome, Ms. Clemenger.

Ms. Tracy Clemenger: Hi.

The Chair (Mr. Shafiq Qaadri): Please be seated, and please begin.

Ms. Tracy Clemenger: Thank you to the honourable members for inviting me to come and appear before this committee. Given we have only a 10-minute block, including Q and A, I'll be very brief.

To understand adoption is to understand that adoption is a moral and social issue involving all Canadians; it is not just a fertility issue. It is also not bound by geography or jurisdiction. It is a national issue.

Canada's adoptable children tell us how we are measuring up as a society, and if potential adoptable children in the system were our teachers, they have been telling us for some time now that it's time to get results of justice.

I am happy to see the arrival of Bill 179. The intent to empower agencies and courts to bring closure to very difficult situations that are leaving children stuck in the system is overdue. Giving youth an opportunity to have more of a say is also a good move. Confronting issues in home study backlog is also a good thing.

At the outset, I also want to acknowledge that it is the front-line workers, especially the judges, who are tasked with sorting through deep levels of brokenness.

For the committee today, I want to focus on four specific items and then comment on the national context in which this legislation is tabled.

Bill 179, section 216, concerns the new regulatory prescribing powers being given to the minister at the regulations stage. This puts key details into the hands of the bureaucracy and could mean little incentive for an ongoing interdisciplinary process that might keep adoptive families and all stakeholders, especially children, at the centre.

However, not wanting to delay this legislation, and during the amended regulations phase of section 216, I submit the following recommendations for consideration:

The minister, along with his or her staff, commit to openly consulting with stakeholders to have a substantial dialogue with executive directors of each of the CASs in Ontario and among First Nations communities.

Section 145.1.1, notice being given to a person who has an access order: I would like you to consider expanding this definition. Stakeholders are more than just those with access orders. I would like to see adoptive parents who have biologically related siblings to the child in question to be included here. By this, I mean those existing adoptive parents who may already be parenting another child from the same birth mother or father. Even though this adoption may have taken place years prior and with another agency, these adoptive parents may not have necessarily been told about another child's existence or circumstances.

As I understand it, there is no legal obligation for agencies to consult with one another or notify adoptive parents that a new child has come into care. I'd like to see adoptive parents included in this section and notified of the existence of the child coming into care and kept abreast of the proceedings. There is going to be a flood of children and potential siblings available for adoption with a change in this legislation. As a provincial and legal standard, adoptive parents need to be given the chance to consider adopting any siblings or half-siblings and/or be given the opportunity to be included in an openness agreement, also within that 30-day period, with either the birth parent or any alternative arrangement being made with the grandparents or another prospective adoptive family.

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Clause 145.1.2(6)(b): Age 12. If there could be clarity on that? I understand that age 12 is a threshold in the act in general when it comes to protection.

I think we have to understand what is the nature of "child." This is a national problem right now, in terms of having a national standard and how we understand what is a child and what is a youth. Is the child treated as an autonomous individual or as a unit—whether the child, older in age, could be connected to known siblings. In Quebec, as I understand it, "child" is considered as a family unit at the intake level. I'm citing the Canadian Incidence Study of Reported Child Abuse and Neglect. They're one of the few agencies that are now starting to collect data at a national level.

How does this work out? I have in mind the potential burden being placed on the eldest child. For example, a child turns 12 and is faced with being directly involved in any possible openness order agreement. The child has three younger and curious brothers and sisters. The weight is falling upon small shoulders, who will be aware enough to know that their individual decision will have an enormous impact on themselves and their siblings. So I think that at the regulation stage, it would be good to finesse what we mean by "child": Are they a unit with their siblings or one person?

Adoption is a national concern. As I said from the outset, adoption is not just a so-called infertility issue, but a moral and social one. My husband and I chose adoption from the get-go of dating, and after our marriage, when it came down to it, chose it in lieu of family formation via a pregnancy. Our thinking was that if there was one child needing a home, you make yourselves available to that child.

The adoption of Ontario's 9,000 crown wards calls us all to refill the empty nest, to expand our sibling numbers and to open our homes a little wider. It calls grandparents to encourage and support potential adoptive grandchildren. But adoption is also a social issue that requires us to make new priorities at home, and more so, professionally. It means that children must be at the front and centre of all legislation, not just a children's welfare bill. And I believe that parenting is not a right to fill infertility issues; it actually is a social privilege.

When I meet with legislators, no matter their portfolio, I encourage them to ask witnesses who appear before the committee the following simple question: How does your proposal today improve the quality of life of a child? This could have an enormous impact on the types of decisions being made on all legislation at all levels of government. I am asking each one of you here today to commit to asking this question in your own priorities and planning.

As a social issue, adoption and the improvement of the quality of life of all Canadian children shows no partiality to geography, but at the same time, in respecting jurisdiction, is a constitutional issue of national concern. The federal House committee studying measures to support adoption began the journey into learning about these important, out-of-the-box issues this past fall, during their hearings. Unfortunately, the tabling of the report died on the order paper with the call of the election. They learned that there are no national standards among terms, services, accessibility and portability; no gathering of data; and no pool of best practices working in collaboration with departments. For those of us who appeared and welcomed the discussion, a national child strategy was encouraged and well-received, so I would also ask all MPPs to support a meeting among first ministers and chiefs to discuss the welfare of children.

MPs were also interested in the idea of working together with MPPs in their constituencies to brainstorm. I want to encourage you to speak with your MP today, as an MPP but also as someone who voted recently, to connect with them and find out what possible arrangements can be made at a collaborative level.

I want to applaud all MPPs for welcoming Bill 179 and for turning their attention to the systemic challenges of children's welfare, the needs of the front line at the local level, the needs of families, the hopes and prayers of the children longing for a permanency plan. It is a first step on a road less travelled by most adults but one well trodden by children who, through no fault of their own, are finding themselves in need of government care. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Clemenger. There's very little time. Mr. Prue, just a handful of seconds.

Mr. Michael Prue: It's okay.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Mr. Colle?

Mr. Mike Colle: Yes, just thank you for all the attention you've given to the children and just continue to do that. I hope you will.

Ms. Tracy Clemenger: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Ms. Jones?

Ms. Sylvia Jones: I don't have any further questions. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Ms. Clemenger, for your deputation.

MR. BRUCE CLEMENGER

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward: Mr. Bruce Clemenger. Welcome. Please begin.

Mr. Bruce Clemenger: Thank you. Far be it from me to disagree with anything that you've heard from the previous presenter.

I want to thank you for the opportunity to appear before you on this most important topic of adoption. I come as a member of an adoptive family, brought together by the children's aid society in Ontario, and also as the president of the Evangelical Fellowship of Canada, which is a national association of denominations, ministry organizations and local churches. Out of our belief that all are created in the image of God and are deserving of care and protection, particularly the vulnerable, one of EFC's areas of engagement is the well-being of children in Canada.

Caring for crown wards is a high calling, and the power to intervene and remove children from their parents is one of the most important powers of a provincial government. These responsibilities must be exercised with wisdom and with care. Both to act without due diligence or to procrastinate can detrimentally affect the lives of children.

The CAS workers who I have met understand well their responsibilities and, I believe, work hard to ensure the well-being of the children in their care. At the same time, every effort, I believe, should be made to assist the natural parent to nurture their child, if possible, or to explore kinship possibilities.

Bill 179 is an important, I think, and worthy step along the path of finding a forever home for children and youth in this province. As you've discussed in the debates at second reading, there is more to do. This bill represents some two of the 40 recommendations made in Raising Expectations. There's more for you to do as legislators to enable and facilitate a significant reduction in the number who are waiting.

My first recommendation is that this legislation not be held up in order to include other substantive changes. The process of ensuring access orders that (1) are not benefiting the child or (2) are not utilized by adults should not become a barrier to adoption, and this is important. It is all the more complicated, however, when dealing with sibling groups for whom different access orders are in place for each child.

Continued access may be beneficial for the child as well as the birth parent, or the member of the kinship group. I am concerned for those parents who have lost access—some because they're not well parented—and what the loss of access will mean to them. I wonder who will care for them and how this is being facilitated. While some will retain access through openness orders, the best interests of the children and the importance to the child of permanency of adoption offers, I think, should take precedence. The extension of support of the CAS to the age of 21 for those crown wards who desire it is an important step of extending care for those who have no place to call home.

There are other steps the Legislature should pursue, many of which are outlined in Raising Expectations. My second recommendation is to ask that you might consider, as a committee, bringing forward an all-party motion to the Legislature that sets out a mutually agreed time frame for the implementation of other important steps that will reduce waiting time for children. For the sake of these children, our children, I encourage you to rise above the partisan positioning and, together, come to an agreement on the next set of priorities, to announce it publicly and plan for it legislatively so that the upcoming election does not delay what needs to be done. I know this is not easy.

Many provinces are also reviewing the current models and approaches. I've read many other studies. The number of children in care in Canada is increasing, and there's no indication that the underlying issues that result in neglect and abuse of children are abating. There's no national strategy. There's no equivalent to the Canada health care act for children in Canada. Provinces continue to revise their systems and programs. I do not question the sincerity or goodwill of all involved, but can we do more?

The five years since legislation was passed to speed the process of adoption may not be long in a legislative time frame, but for a child waiting, it is a significant part of their life and will impact their whole life.

My third point is that the care for these children and encouraging families to step forward and make themselves available is not your responsibility alone. The minister's intent to increase the number of events that link waiting homes to waiting children and better Web-based access to information for respective adoptive parents are vital and should be pursued.

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Likewise is the importance of developing a coordinated and broad strategy for recruiting families.

For recruitment, though, partners are needed. It is good to know that there are some 1,500 homes waiting to adopt. There should be many more. The typical resident of Ontario needs to break out of the presumption that looking after these kids is someone else's responsibility. When the CAS was founded, it was quite the opposite.

In the 1880s, the need for reform, and particularly the need to foster concern and humane responses to the weak and the vulnerable, captured the heart of a young journalist named John J. Kelso. Caring for the vulnerable was a principle of his Christian faith and was nurtured in him by the lives and actions of prominent citizens in Toronto, like then-Mayor W.H. Howland, whom he covered as a reporter.

Kelso's own engagement was prompted by an experience he had while working as a reporter for the World, a Toronto newspaper back in the 1880s. Late one night while walking on Yonge Street, he was asked by two crying children, a brother and a sister, for 25 cents. Their father had told them that if they did not return with money, they would be beaten. After a three-hour search, he found a place willing to take them in. The next day, the parents were charged with neglect, but the case was dismissed, as the judge felt there were insufficient grounds for prosecution.

Kelso began to envision a voluntary society that would promote the prevention of cruelty. Subsequently, he founded and directed the Toronto Humane Society, whose mandate was to protect children and animals. As the needs of children and the complexity of their care unfolded, the children's aid society was formed a few years later and the humane society narrowed its focus to address the ill treatment of animals. Kelso soon became president of the children's aid society in Toronto and later was responsible for the development of societies across the province.

The society was intentionally non-governmental. It was to be a society of citizens: lay people, neighbours and colleagues. The well-being of children and community was understood to be the responsibility of all. There was not a strict separation of roles, and the government was seen as playing a supporting and enabling, but not the primary, role. In the first years of the CAS, the need for full-time professionals was recognized, but it was still understood to be primarily the responsibility of the local community, hence the idea of a society, and hence the development of 53 CASs across Ontario; they were to be community-based and community-oriented. However, with increased government ownership, ensuring the welfare of children came to be seen as the responsibility of one sector: the government and its agent, the CAS. This perception, or misperception, limits an adequate response from the broader community.

I Am Your Children's Aid is a marketing campaign that carries an important message: The CAS works on behalf of us all. Crown wards are not just the minister's kids or the CAS's; they are our children. The CAS is acting on our behalf for the good of our children. It is we as a society who have decided that children should be protected from abuse and neglect, to the extent that they are not only placed in the care of others but adopted with

birth certificates that recognize the adoptive parents as birth parents. It is the CAS that we have empowered to act on behalf of children, with the consent of our courts. We need to broaden ownership of the need for adoptive families and care for children and youth. The matter of recruitment cannot be that of the CAS alone or yours as government.

The additional task imposed by this legislation will generate additional work on the CAS. Not only do they need help, but some of the burdens they have need to be shared. What is needed, I believe, is a more coordinated strategy to recruit prospective adoptive families and foster families. This is where the other societies of people of goodwill—the Adoption Council of Ontario, the Dave Thomas Foundation, religious groups and other communities—can be of help. The goal is to encourage as many families as possible to take the first step and take a PRIDE course. The goal should be that there are more waiting homes than waiting children.

Let's work together for the well-being of children and finding homes for children. That is my last recommendation: that the government seek ways to partner with others in its important task of recruitment.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Clemenger. You have thirty seconds, Mr. Colle.

Mr. Mike Colle: Thank you for your comprehensive and very informative presentation, including a history of the origin of the CAS. I commend you again for this publication and your focus on children and the need to bring awareness to this critical issue about our children.

The Chair (Mr. Shafiq Qaadri): Ms. Jones?

Ms. Sylvia Jones: Just one brief question: I'm sure you know that in Bill 179 there is an addition that suggests children should be involved in the process from, I believe, the age of 12. Do you have any thoughts on that age: whether it should be lowered, if 12 is appropriate?

Mr. Bruce Clemenger: I'm not an expert on that. As children become more and more aware, they should have more and more—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Prue.

Mr. Michael Prue: One of the things that's not in the bill—I've had a chance to look at your article a little bit—is the recommendation that adopting parents be afforded a certain amount of money, if necessary, to smooth out the adoption and also to pay for children with special needs. Any thoughts on that?

Mr. Bruce Clemenger: I think it would be quite important to continue subsidies assisting parents who are adopting children with special needs. I see that as more of a failure—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue, and thanks to you, Mr. Clemenger, for your deputation.

MS. KELLY MACKIN

The Chair (Mr. Shafiq Qaadri): I invite now Ms. Kelly Mackin to please come forward.

Welcome, Ms. Mackin. You have exactly 10 minutes. Please begin.

Ms. Kelly Mackin: Good afternoon. I am here to speak against Bill 179.

The children's aid societies and the Ministry of Children and Youth Services have been failing Ontario's crown wards for far too long. The reason I am here today is one of personal pain. When my son was just a little boy three years old, I voluntarily put him into care of the Catholic Children's Aid Society of Toronto. At the time, I had a substance abuse problem, there was nowhere else for me to turn and I knew I could not be a good mother, and I trusted them. This would be the biggest mistake I have ever made in my life, and I don't believe that I, nor my son, will ever forgive me for this.

My little boy had to sneak down at night and get food—remember, he wasn't even four years old yet—for a boy even younger than himself. This happened quite frequently in the year and a half he spent in the first place he was put in, a so-called foster home. There is much more that happened, but I will not disclose that here.

I am here today representing the children who have died due to the incompetence of various children's aid society employees: Afua Boateng, Shanay Johnson, Matthew Reid, Sara Podniewicz, Jordan Heikamp, Jeffrey Baldwin, Randal Dooley, Katelynn Sampson and, as of late, baby Miguel Fernandes. These children would be alive if children's aid society employees really did their jobs.

Children in crown care are medicated and diagnosed at a much higher rate than the general population. Nearly half of our crown wards are medicated. I have included several articles of facts for everyone, and they will be available at some point, as there is a lot of it.

On April 1, 2010, a 51-year-old man, a foster parent in Windsor, Ontario, was sentenced to six months in jail for sexually assaulting a girl in his care. There are still foster children in that home. Again in Windsor, Ontario, on March 9, 2011, a foster mother pleaded guilty to sexually assaulting a 14-year-old boy in her care. She also provided him with alcohol and drugs. In January 2011, Maurice Lavigueur, 52 years old, a man who was honoured by Family and Children's Services Niagara, was charged with six sexual offences against children in his care. In Sudbury, Ontario, 11 months ago, why did the CAS want the father's name kept secret—this girl was adopted. At 11 years old, her foster father began molesting her; at 14 she gave birth to his now two-year-old son, and she was the one responsible for the publication ban being lifted. He got seven years in prison. That's four child molesters in 13 months.

As for safety nets for children, an article was done on roughly 20,000 serious occurrence reports—those are for children being physically restrained: "These 'serious occurrence reports' are considered a 'major irritant' by the Ministry of Children and Youth Services and children's aid societies, according to a review by a Commission to Promote Sustainable Child Welfare. The commission also found the paperwork is rarely" acted on by the ministry. I have several articles here.

In closing, I will say that it is not—I'm sorry; I'm so emotional, I'm so angry and so disgusted—in children's best interests to be adoptable after 30 days. I'd really like to know what—let me quote Mr. Cardozo correctly—a portable home study is? Is that a meet-and-greet?

With a track record of incompetence resulting in many needless deaths of children, fraudulent spending, firing over pornographic emails—that's the Catholic children's aid society in 2002—overmedication of children, abuse by foster parents, child molester after child molester fostering and $1.4 billion a year with no accountability, imagine what we don't know.

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What I want to know, as well as what people of this province deserve to know, is who could actually believe that the children's aid societies and the Ministry of Children and Youth Services are capable of choosing "forever safe" people to adopt when they cannot keep children safe in their so-called care?

The best interests of the children need to truly be the priority.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Mackin. We have about 90 seconds a side, beginning with Ms. Jones.

Ms. Sylvia Jones: You mentioned that you disagree with the 30-day period that is in Bill 179. Do you have a recommendation for a different number?

Ms. Kelly Mackin: As far as I'm concerned, if you want to adopt a child, you shouldn't be given anything more special than what a parent who has a natural child should have.

Also, how many of these children have grandparents or family members who can and would raise them if they were allowed?

Ms. Sylvia Jones: So you think nine months would be more appropriate?

Ms. Kelly Mackin: I did not say that. Ombudsman oversight actually would be the best thing.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Prue.

Mr. Michael Prue: You anticipated my question—Ombudsman oversight. My colleague Rosario Marchese tried to put something through last week or two weeks ago, and it didn't go anywhere. Do you think that if we had Ombudsman oversight, many of the problems that you are mentioning would be resolved so that we could get on with the difficult task of having children find adoptive families? I'm really worried about those who are adopted and abused.

Ms. Kelly Mackin: Thirteen months, four child molesters that we know of—in this province alone. We are the only province without Ombudsman oversight. The party that voted against it, the Liberal Party—why does the ministry not want the Ombudsman to look? What don't we know? These are children.

The Chair (Mr. Shafiq Qaadri): Mr. Colle.

Mr. Mike Colle: Thank you for your presentation

The Chair (Mr. Shafiq Qaadri): Thank you Mr. Colle, and thanks , Ms. Mackin.

MS. ROSE BRAY

The Chair (Mr. Shafiq Qaadri): Now I invite our next presenter to please come forward: Ms. Rose Bray. Welcome. Please begin.

Ms. Rose Bray: Thank you for the opportunity to make this presentation to your committee. My name is Rose Bray. I live in New Dundee. I am here as a concerned citizen. I have become aware of the actions of the children's aid society against good families. I have also learned that the children's aid society is privately owned and has no independent oversight.

After hearing so many stories of children being forcibly removed from loving families for reasons other than child abuse, I became alarmed. Children are being removed for poverty, and parents are being coerced into giving up custody to secure government funding for required medical and therapeutic services. This is so wrong. It is not a crime to be poor or to have medical needs.

Both of these issues are very near and dear to me as I was a medically fragile child who came from a poor family. I was born in 1962 with a complete heart block. Back then, there was nothing that could be done for my heart condition. I was sent home, and it was not known how long I would survive. My family kept a constant vigil over me. I was always in and out of the hospital. I had a heart attack at ages 2, 6, 11 and 17.

Every day, my mom or dad would check my temperature numerous times. If I had a temperature, I was given a bath and a nitro pill, and the family doctor was called. One time my mom called the doctor, and he told her to give me two Aspirins and put me to bed. She did not follow this advice and phoned another doctor who came to our house and gave me a shot. My family doctor said that if she had done what the first doctor had said, I probably would have died.

It was very scary being such an ill child. I would sometimes be so weak that I could not walk; I had to crawl. I was not able to run and play the same as other kids. My parents never left me alone for fear I would have a bad spell. I cannot imagine anyone but family who would take such good care of a sick child. I was only allowed to stay with family and never stayed over at a friend's house. My parents would have never taken the chance that I might have a bad spell when family who knew what to do and watch for were not around.

The children's aid society says that the children who die in their care are medically fragile, but they do not tell you that upon investigation, 75% of these deaths were found to be preventable. The safest place for children is with their loving families.

Poverty is not a reason for taking children and adopting them out to strangers. I have been raised to believe that you give to the poor and that you help those less fortunate. As a child, I never went to a restaurant with my grandparents, yet I ate the best meals of my life at their home. I never went to a zoo with my grandparents, yet I learned to love and care for farm animals. I never went away to faraway beaches, yet I swam at the best beach

ever. I never went to a movie with my grandparents, yet watching bears at the dump was the best entertainment ever. As a child, my grandparents never bought me gifts, yet I had the warmest homemade quilts, mittens and socks.

The message here is that family is about love, not about money. Poor and sick children do not want forever families; they want their families forever.

I have included three news articles for the committee from the Intelligencer, the London Free Press and the Expositor—you'll have to watch my pronunciation; it is hillbilly—to show how the poor, the sick, the disabled and native people are unfairly targeted by the children's aid society.

The Intelligencer press release children's aid article is very disturbing to me as this is where my poor family is from. The Hastings children's aid has two and a half times more kids in care than the provincial average. This area consists of family farms and is sparsely populated, yet there are more kids in Hastings children's aid than Mississauga's, which has an estimated population of 1.2 million.

The manager of the children's aid society in-care services department, Francis, says, "We know that poverty in this area is an issue," as are addictions, the economy and mental health, and also says that some of the children do have high medical needs. None of these issues are reasons to take a child from their good family.

In the London Free Press article, the children's aid society says that the agency will try to take fewer kids into its care by keeping more of them with their families. Children's aid also states the number of children in need will be affected by issues outside of the agency's control, such as poverty. The most disturbing statistic is, "Five years ago only 10% of kids under the agency's care were cut off from their biological family. But now 70% of all new kids taken into agency care are cut off from biological family." This 60% difference represents the stolen poor kids taken from good families for profit and forced adoption.

This article also refers to the deal reached with Queen's Park. The province has agreed in principle to cover the agency's costs. It did so with big strings attached. The province will cover the $4.2-million deficit, but the number of kids in its care must be cut by 25%. The effort to keep kids in family will get provincial funding, the government says. The article also stated that the cost of children's aid societies nearly doubled in five years, growing more than three times as fast as the provincial government as a whole. It is very clear that the privately owned children's aid society needs to be reined in, not given more power without Ombudsman oversight.

The Expositor articles are the most recent articles, from a month ago, on how native children and parents are being unfairly treated by Brant children's aid. On a Tuesday, Six Nations clan mothers brought their message to council toting 483 balloons to represent the number of aboriginal children in the care of the children's aid society. According to the Brant children's aid society, there are only 57 aboriginal children in care; the other 426 native children must be the stolen ones that the children's aid society does not want the public to know about. If this is how the children's aid society counts, the true number of children in care is out of control. Enough is enough. It's time to bring our children home and reunite the families.

I'm not sure how my time is.

The Chair (Mr. Shafiq Qaadri): You have three minutes left.

Ms. Rose Bray: I have three minutes?

In 1972, I received my first pacemaker. In 2009, I received my 10th pacemaker. It is the machine that keeps me alive, but it is my heartbeat that gives me life and feeds my soul. It is said that no machine can beat as strong as the human heart, so please, use your political position to do the right thing and save family. Thank you.

1450

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wyte-Bray. There are about 30 seconds or so per side, beginning with Mr. Prue.

Mr. Michael Prue: You talked about leaving children with their families. By that, I think you mean the extended families, so they should go to the grandparents or a sibling or something first?

Ms. Rose Bray: Anyone. If a person has an addiction, that is a sickness. That needs to be helped. There are grandparents, there are aunties, there are uncles, there are friends; there are so many places for these children to go without strangers.

Me personally, had I ever not been in my family's care, I would have surely died, I was so sick. These medically fragile children do not need to be taken away from their families so that they can get government funding and the medical care that they need. They need to be with their families. No one loves their child like the family.

The Chair (Mr. Shafiq Qaadri): Mr. Colle?

Mr. Mike Colle: Thank you for the very passionate and compelling presentation. I know it's not easy. It's just that the question is, though, what if you can't find a loving grandparent, sibling or relative or someone? What happens then? And I'm saying in the case where—

Ms. Rose Bray: Well, I mean, there is a need for the children's aid, but the most disturbing thing I find is that when there is a need, nothing is done. But for the most part, we have extended families. Very rarely would there be a case where the child would have no family members. We all have extended families. We have aunts, uncles, friends, neighbours. I think that there's a whole list of people—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Ms. Jones.

Ms. Rose Bray: —before ever a child should go to foster care.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Thank you. I was going to let you finish what you were saying. Thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Whyte-Bray, for your deputation.

MS. LINDA PLOURDE
MS. LAURIE MONTAG
MS. MAGGIE STEISS

The Chair (Mr. Shafiq Qaadri): I invite now our next presenter, Ms. Linda Plourde, to please come forward. Welcome, Ms. Plourde. I'd invite you to please be seated. Please begin now.

Ms. Linda Plourde: I think we have two more with me as well. Two more—within the 10 minutes?

The Chair (Mr. Shafiq Qaadri): Your time has begun.

Ms. Linda Plourde: I am here today to speak on behalf of all the children that died so miserably under the well-funded institutions by our government in the name of greed.

Dealing with Bill 179 is really a question of following the money. Who profits?

I would like to know who gave the right to the Minister of Children and Youth Services—oh, excuse me. No film, okay?

I would like to know who gave the right to the Minister of Children and Youth Services to mastermind and present a harmful bill on our families. Who gave her the right to propose this bill, only to serve the huge money-making industry of children's aid? Her job is to protect the children, not to put them for sale. She is creating and supporting crimes against humanity and holding herself unaccountable for crimes against people committed by the employees and executive of the children's aid.

We have 398 children that died in foster care in four years in Ontario alone, under the supervision of the child protective services. Those children, under the right to life, had the right to live, had the right not to be killed by another human being and had the right to be protected, and children's aid and the government failed miserably to protect those children.

The government is mute. Why? Are they receiving compensation from the children's aid? I want to know why the government refuses to bring accountability in children's aid and wants to sell our children to them by giving them more power. I really want to know why.

It is a choice, from the head down in the government, from the executive director, to allow this to happen. It is a choice of all of you here to oppose or support this harmful bill. This bill will create desperate situations, and desperate situations create desperate actions.

I would like to end my remarks by saying that by allowing this bill to pass, it will be your kids, your grandchildren who will pay. This bill is sending a chilling message to all Canadian people.

As for me, I am Canadian. The people, the children, the seniors, the veterans, all most defenceless, and this country matter to me.

Thank you for listening.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Plourde. We have two minutes or so per side, beginning with Mr. Colle.

Ms. Maggie Steiss: We're all together.

The Chair (Mr. Shafiq Qaadri): Oh, I'm sorry. Please continue, then. Please introduce yourselves.

Ms. Laurie Montag: I'm Laurie Montag.

Bill 179 is an inhumane treatment to Canadian families who do not want to give up their babies by forced adoption. With Bill 179, young mothers are at high risk to lose their babies in a second. For some, the trauma of losing their baby is a death sentence to suicide. The trauma is simply unbearable. My question is, how did you convince yourself that you have the God-given right to decide when a mother should or should not keep her child and force adoption for her newborn baby? Who gave you that right? The decision is not yours to make. The decision should only be decided by the mom or the dad. It's a violation of Canadian law, and let's drop this bill before any more of our children die.

Looking at the reputation of the children's aid, we know that the children's aid is toxic, and I believe this bill should be put on hold until a specific statute of limitations for delayed discovery and damages caused to families by children's aid and a full investigation. Taking babies at birth unlawfully for forced adoption is simply another gravy train for their own project. Drop the bill.

What was done to my daughter was simply evil, and an apology or a paycheque is not enough for me. My daughter was harassed by CAS, not because of what she was currently doing, but because of her past. Say a new parent has drug issues or other problems and they find they're having a baby. How is 30 days time to recover and stabilize themselves and prove to children's aid that they can take care of their baby? CAS claims that they are in the best interest of the child. Where is the support they claim to offer? Even after my daughter agreed to a six-month supervision order, she was continually harassed the month she was at the hospital while her new son recovered from surgery. She was home a week and she committed suicide. This was the letter that she left behind:

"My mind doesn't make sense no more.
"It's like I'm hurting deep to the core.
"Please, dear God, make these thoughts go away,
"Please, dear God, I don't want to live today.
"I look into my little boy's eyes
"Is our world built on lies?
"I lost the fight for this world,
"Please, dear God, make my thoughts go away.
"Please, baby Michael, don't feel my hurt or anger,
"Just lay back, my little boy, in a manger.
"I am sorry for bringing you into this horrible place,
"I am sorry for the tears running down my face.
"My baby boy, I am sorry, I am so sore,
"My baby boy, I am no good for you.
"It's what they say, and I'm thinking it's true.
"Please, my little boy, if I have to go, don't be sad,
"Please understand these people think I'm bad,

"And I think I am too, when I should be giving you hugs and kisses.

"Please, my little boy, don't you ever miss me.

"Just remember I love you.

"Please don't cry for me, little one.

"I will always love you for ever and ever, and that's the truth.

"Suicide, suicide, say you're not a sin,

"Suicide, suicide, do you know where I've been?

"Suicide, suicide, please cut me deep,

"Suicide, suicide, take me in your sleep.

"Suicide, suicide, I know you're right,

"Suicide, suicide, come get me tonight."

She was protected to death by the CAS. She walked away from drugs for her child, and they pushed her right back into it.

Mr. Michael Prue: Go ahead. Your time is running out.

Ms. Maggie Steiss: Okay. My name is Maggie Steiss. My daughter and I were also victims of CAS. She was ripped away from me. I'm not really here to talk so much about her. Children are dying. Children are abused. This is Samantha Martin: Her parents are wonderful parents, but they were told that their child would never get the care that she needed unless she was put into foster care.

1500

The other thing I would like to bring up is that I myself am adopted. I was adopted as a baby. I've been hearing about adoption subsidies for adoptive parents. When my parents adopted me, there were no subsidies. I became their legal child, with all the legal responsibilities, including financial, that go along with that. How can you justify giving adoptive parents subsidies when natural parents do not get subsidies? As a natural parent, I was not given money; I was not given subsidies for being a natural parent. But now you want to give adoptive subsidies. In the case of Samantha Martin, a child with disabilities, they were not helped; the natural parents were not helped. "Put her in foster care, you'll get help. Keep her yourself, you will get nothing." This is wrong. This is totally wrong—and by the way, she was abused in foster care, as many children were, as my own daughter was in the first home that she was at. Eventually, she ended up in a very good home—she was one of the lucky ones—but she never should have been in care in the first place. It was based on lies.

All I can say is that FACS has to go. FACS, children's aid, they have to go. We have to have a new system. They're evil money-makers.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Plourde, to you and to your colleagues. There's really just enough time for me to thank you on behalf of the committee for coming forward and providing us with your written submissions and deputations.

RAISING OUR CHILDREN'S KIDS

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward: Ms. LaFleshe, Ms. Irizarry, Ms. McIntosh and entourage. Welcome, and please begin.

Ms. Eileen Irizarry: Good afternoon, members of our soon-to-be-re-reformed civilized society, concerned parents and advocates for children of this province. My name is Eileen Irizarry. I am here to state for the record that I verily believe that the children's aid society should be abolished. I have had extensive dealings with this agency—corporate baby monsters—and have witnessed an abuse of power and authority over children and the ones who love them.

I do not think this bill should pass, simply because it gives more authority to an organization that has misused its authority so far. And without Ombudsman oversight, there is no end to the abuse of power and authority of the so-called children's aid society. We treat our puppies better than we treat our children.

If we are to consider ourselves a civilized society, we should take a look at how we treat our children, how we treat the biological non-offending parents of this so-called "civilized" society. They are not the society, my friends; we are. Please oppose Bill 179 for the well-being of our children.

I further recommend, whether this is my position or not, that an extensive investigation be launched against the children's aid society for the sake of my child, your child, your grandchild and your neighbour's child.

The people have spoken, and we will speak again and again and again. I spoke to my MP this morning. I spoke to the provincial children's advocate this morning. I recommend to permit the Ombudsman to have power over the children's aid society once and for all and that the CAS be held accountable for all the damage to all the families and all the children in this great province.

Ms. Barbara LaFleshe: My name is Barbara LaFleshe, and I'm a member of a group in Hamilton, Ontario, called We ROCK. It's We Raise Our Children's Kids. We are a support group for grandparents and kin families.

We feel that we more than go above on record as being a voice in our community. We not only support each other but we are out in community, supporting community. With peer-to-peer mentoring, we mentor people on OW/ODSP. We also know of many members of our community who, for lack of funds or lack of jobs, get cut off their—say their heating gets cut off. The direct line of communication is from, say, Union Gas to the director of community and social services, Joe-Anne Priel, in Hamilton. Her dear friend Dominic Verticchio, director of the children's aid society, is informed, and those children are apprehended. It takes months and months to get through court systems to get your children away from children's aid.

I want to speak on that, but I also want to say, as a grandparent and one who has cared for her granddaughter, that my daughter was diagnosed with a mental illness. She is levelled out and is doing quite fine now. Her life is her child. If I hadn't been there to support her—children's aid is not viewing grandparents as the

best scenario in raising grandchildren. A lot of our grandmothers had to fight vigorously through the court system, exhausting all of their finances, to keep the children within the home. I can't imagine me worrying and wondering, "What ever happened to my granddaughter?"

With that, I'll pass it along to Bev McIntosh, another member of We ROCK.

Ms. Beverly McIntosh: Good afternoon. I'm here for the children. I have two grandchildren that I have been raising. They're both fetal alcohol plus ADHD. The problem is, people will not take these children because they're too much to have to look after. We're at doctors' appointments where we have to do this and we have to do that. We have to be very careful with these children. Even at school, they're sent home a lot of times because they can't sit still, even though they're on medications. And it's not just mine; there are a lot of children out there that are like this, who need the help. The school is doing as much as they can. The government needs to help these children as well.

They are going to be teenagers. My granddaughter's going to be a teenager next year, and I've had her since she was nine months old. Right now, she is up at Lynwood Hall, because she's having such a hard time, so she's up there. Her brother is here with me. I had to take him out of school. I won't be home in time to pick him up, so I brought him here with me. He's also fetal alcohol effect and ADHD, and he has a lot of problems at school as well. Sometimes they're sent home, because the teachers can't control them. To me, that's not right.

There are more and more children that are being born from parents who don't think, when they're pregnant, what they're doing to their child, and that's the biggest thing. The mother of my two still says, "I didn't drink." But it's been found in their hair. Rosina is really bad. She's very tiny. You wouldn't even think she was 13. She only weighs 42 pounds; she's just a little thing. Austin weighs more than her. But I was around when he was around, so the mother did not get as much alcohol in her system. She swore to me she didn't, but she did, because they tested him when he was first born and it was in his hair.

This is a big problem—I think you have it in Toronto; we have it in Hamilton—that these young people are out there and they're hurting the children that they're supposed to be taking care of by taking drugs and alcohol. The drugs you can get out of their system; the alcohol you can't. Alcohol is in the amniotic fluid for 48 hours before it is cleaned out, so every little baby is sitting in alcohol for 48 hours. So when they're born, they usually have a lot of problems.

1510

Ms. Barbara LaFleshe: One of the things I wanted to add for Bev is, when you're considering putting through—rushing through and hammering through—Bill 179, you must be extremely careful, because there aren't many people other than family members, grandparents, who would go 100% the distance with their grandchildren, ensuring that they have a fully functioning life, one that is sustained through all the years of growing up. As far as adoption goes, there aren't many people on earth who will have gone the distance like Bev McIntosh.

I just want to say that this is an extremely important bill, one that we do want you to—really, at best, we want to say to shut this down right now. Definitely the CAS needs to be investigated on many strains, and I think one of the reasons why this is being pushed through right at this point is because CAS has failed.

With that, I just wanted to add one thing. Our president couldn't be here. Her name is Diane Chiarelli. She does say that the constitution does give rights to people, but one right can't overstep the right of another. I wish you would consider this today.

The Chair (Mr. Shafiq Qaadri): Thank you very much, on behalf of the committee, to you, Ms. Irizarry, Ms. LaFleshe and Ms. McIntosh, for your deputation. The time has expired.

MR. ATTILA VINCZER

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward. I understand Ms. Vinczer is coming to us via conference call from Newmarket. Are you there, Ms. Vinczer?

Mr. Attila Vinczer: Yes. That's actually Mr. Vinczer.

The Chair (Mr. Shafiq Qaadri): Welcome. I'd invite you to please begin. You have 10 minutes before the Standing Committee on Social Policy in the Parliament of Ontario. Please begin.

Mr. Attila Vinczer: Thank you. Good afternoon, committee Chair and committee members. My name is Attila Vinczer, a father of two wonderful children. Thank you for affording me this opportunity to speak to matters of concern with respect to Bill 179.

In consideration of the serious ramifications pertaining to the public and family interest and well-being, I respectfully make the following submission for the committee's serious consideration and contemplation prior to voting on Bill 179, which, from what is understood, will make it much easier for children to become crown wards.

I am a member of the York CAS, as well as active within the community of Newmarket. I am the secretary of the Canadian Maltese Charitable Service Trust, a duly registered charity that has been in operation by my family for 16 years, raising over $250,000 to help families and children worldwide. Furthermore, I take an active role in assisting families who are having difficulty with CASs throughout Ontario, Canada and even internationally. As such, I have extensive knowledge of the dangers within CAS agencies and their ancillary veins of operation.

In 2008, I was dumbfounded when my vindictive ex-wife made false allegations to the CAS, which then unlawfully ordered my children detained by the school principal. I had to attend a CAS office, where I was coerced into signing a service agreement and was threatened with having my children put into foster care should I not comply—this, based on one phone call and no

investigation. The allegations were found vexatious and untrue after a period of 30 days—the same amount of time that this bill would enable the adoption of children in care to become crown wards.

The Liberal government intentionally defeated the second reading of Bill 131, which would give the Ombudsman power to investigate. Minister Laurel Broten indicated on May 5 that there are plenty of avenues for parents to pursue if they have issues with the CAS. Recently, a father in Muskoka made such a complaint to a review board, to find himself being served with legal documents within two days after that complaint, and that he had to appear in court the next morning.

Mistakes can be and have been made—such as the disgraced pathologist Charles Randall Smith, who has caused grave issues of concern to countless families, such as William Mullins-Johnson and many others. He spent 12 and a half years behind bars for a crime he did not commit, costing Ontario taxpayers $4.25 million in compensation. CAS was heavily involved in that case against an innocent man.

Given the mistakes that have been made, can the Liberal government guarantee that a child wrongly removed from a family will not be adopted out? Who will take personal responsibility should such errors take place? It should be known that those who fail in their fiduciary responsibility to the public can be held personally liable. What real protection does a parent have to combat the now-proposed accelerated adoption process of children in care? Considering it can cost $50,000 or even $100,000-plus to defend against such intrusive action by the provincial government—that is, CAS agencies and other social agencies—how is an average family supposed to afford a defence against such action?

This committee must consciously be aware that if they vote on passing this bill, and having knowledge as I put before you that there are serious flaws in this bill where errors can be made, each and every one of you are jointly and severally responsible for the making of a bad law that will have dire consequences on the very fundamental fabric of our society: our families and our children.

I am gravely concerned, as are hundreds of other people I've spoken with, that this bill will grossly erode the fundamental rights of parents. I ask that each and every committee member seriously consider what I and others have brought before you in ensuring that a flawed bill such as Bill 179 is not passed into law.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Vinczer. We'll have about 90 seconds per side, beginning with Mr. Prue of the NDP.

Mr. Michael Prue: Part of the problem that I see—and you talked about it—is the lack of Ombudsman oversight. If there was Ombudsman oversight, would you be as concerned with what's in the bill?

Mr. Attila Vinczer: If there was Ombudsman oversight, I would still be concerned with what's in the bill, but at least citizens would have an avenue to deal with such issues, other than having to hire a lawyer, which can cost tens of thousands of dollars.

Mr. Michael Prue: Should there be some kind of mechanism where, after 30 days, if they decide that a child should become a crown ward—should there be some method of appeal of that?

Mr. Attila Vinczer: There always should be a method of appeal. Our judicial mechanism is geared in such a way that if a lower process committee, a judicial process, makes errors, those errors can be addressed at an even higher level.

I am very concerned. CAS agencies have made mistakes over and over again. I hear about this at least once a week. When children are taken away from parents and they end up in foster care, it becomes literally impossible to get the children back.

The Chair (Mr. Shafiq Qaadri): I now hand you over to Mr. Colle of the government side. Mr. Colle.

Mr. Mike Colle: Thank you for your presentation.

I thought I heard you say that this bill will make it easier for children to become crown wards. Could you explain that, please?

Mr. Attila Vinczer: As I understand it, it will now only take 30 days to make it possible to adopt a child out that is in care. Am I wrong?

Mr. Mike Colle: I guess the intent of the bill is to remove barriers whereby a child can go from being a crown ward to being in an adoptive family.

Mr. Attila Vinczer: I understand. The issue is, we need to be very clear that no child is taken from a family without due process. From what I understand, this bill will give further power to move that process along.

1520

Mr. Mike Colle: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Mr. Arnott.

Mr. Ted Arnott: Mr. Vinczer, thank you very much for your presentation. In spite of the fact that you are speaking to us by conference call and you're not here physically present making your presentation, you've expressed yourself very well. I think committee members have a very good understanding of the position that you wish to pass along to us. We appreciate the input of all the presenters, and we thank you very much for participating in the process.

Mr. Attila Vinczer: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott, and thanks to you, Mr. Vinczer, for your deputation.

MS. ANDREA ARMSTRONG

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward, Ms. Armstrong. Welcome. Please begin.

Ms. Andrea Armstrong: I'm Andrea Armstrong. I have a legal administration diploma from college; I've worked as a legal advocate for low-income people for 20 years on a volunteer basis. I also worked as a nanny for the Canadian Tire family, Alfred Billes; I've worked as a nanny for Jeffrey Simpson, the Globe and Mail journal-

ist. I've also done special needs work in the homes of people who had CAS involvement.

I am both for and against Bill 179. I'm adopted at birth myself. I was adopted immediately through York Region CAS into a very loving adoptive home. I support adoption when it is properly investigated and the children are going to a proper home. My parents were meant to be parents; they just had infertility issues. I have also gone through an adoption reunion, and my natural mother would have also been a very suitable parent. At the time, though, in 1968, that was not an option for her.

I also had a crown ward child over the age of 18 living with me. She had been placed into foster care on a kind of voluntary basis. The other siblings were left in the home: There wasn't a need to remove them, apparently, but this girl did not want the discipline of her father and chose to go into crown wardship. When she went to college, she moved into my home for a short period of time. She didn't have the life skills that her sister had, which she had learned staying at home with her family where she had to do chores and everything else. The girl who grew up in foster care had everything handed to her on a silver platter, including two laptops two years in a row. The second laptop she didn't need, so she gave it to a friend who ripped her off for it instead of giving it to her sister who really needed it. So there are limits to what funding should be available to support these children up until the age of 21.

Ontario Works benefits are not sufficient to keep a dog in a humane situation. I'm on an ODSP pension and I'm forced to pay $1,100 a month for an apartment that still does not meet fire or health codes.

I have voluntary CAS involvement at the moment because of issues that involve the death of a child in Peterborough, so let me get into that.

Ombudsman oversight: This crown ward child of mine, who was a roommate, was actually falsely listed as my child on the provincial database. Shortly after a fire that killed a child that I was—I have evidence of systemic government negligence that led to this child's death. Three government agencies knew that her sibling had been starting fires. The child had been taken to the fire department to be spoken to before the fatal fire. Probation and parole had been told about a bed fire that had been put out and that someone "was going to get killed." Subsidized housing knew about this child's fire-starting abilities. The neighbours complained, even asking about firewalls. They were ignored. There were several orders against the unit to do with fire hazards in the past: smoke detectors being disconnected, garbage having to be removed from the basement. That was a welfare fraud case because the grandmother was paying $1,500 every six months to have garbage removed from the basement, and it wasn't being reported to welfare.

Sorry; I'm totally working without notes here. This is on the fly because you had an opening.

My matter is still before the Child and Family Services Review Board. I have never, ever had a custody issue with my children. The only reason children's aid has been involved in my case is because I have an ex-husband who has post-traumatic stress disorder from serving in the army and, of course, he cannot get treatment for his post-traumatic stress disorder. I have to send him back to Alberta to get that, it seems. I still supervise my ex-husband's visitations.

Toronto CAS found these serious errors on my file from Peterborough CAS, as in the fact that this crown ward child had been noted as being my child when she was not. We also noted errors on the file that I had apparently been gang-raped in the past, and there is no truth to that. There are also errors on the file saying that one of my children, however with a different birth date, is actually in the guardianship of somebody I don't know, who is actually another CAS client; they've just confused the files and sandwiched them together. This file also states that the change of guardianship is in regards to a death in the family. All of this is untrue.

Toronto CAS disclosed these errors to me because they were concerned that due to my legal advocacy work and the false arrests that I had been suffering, if a judge was to see these CAS records, my children might be put falsely into CAS care. It's these types of issues that I find a problem with when it comes to a 30-day adoption.

Being on ODSP, I have a constitutional issue, and do not have $7,000 to retain a lawyer. If you are on disability or on welfare, you are not allowed to even borrow money from your life insurance or anywhere else for your legal defence, to order court transcripts, for divorce papers, and that is against human rights. I should be able to get that stuff, and this is one of the matters that has really been causing some problems.

My asset level on ODSP, with two children, is $6,000. To do a constitutional issue is a minimum $7,000 retainer by a lawyer. So even if I can borrow the $7,000, it's above my asset level and I would be cut off.

There are many middle-class families that do not qualify or do not have the money for legal representation. Legal aid covers next to nothing, and I have several letters on the way trying to explain why they've dismissed two applications of mine. Legal aid does not deal with administrative matters, they only deal with custody matters, so I've been denied legal aid for the child and family services board after about eight months of wasting my time trying to get that.

If my children had been taken from me, then maybe I would have some legal representation, but if I'm fighting errors based on what CAS has created, I have no legal representation and no legal rights. This is what concerns me about 30-day adoption. There needs to be some more time to allow people to get proper legal representation, if it's even available to them. A lot of people are given false information about the timing and what they need to do in the court process to ensure that they can continue visitation with the children. I'm concerned about grandparents who have visitation orders and those being taken away from them.

I myself am a perfect case of nature over nurture. I would have done well in either family that I was in. My

siblings who grew up with my birth mother are RCMP officers, corrections officers etc. Although I was adopted into a loving home, I was abused outside of my home, and that has affected me greatly throughout my life.

I supported a woman whose child was taken from the hospital; she had had several other children taken. She was a neighbour of mine. I happened to be at the hospital when CAS came to take the child, so it was a little difficult for me, being adopted myself.

At the time, I thought that they should give her a chance and let her keep the baby. However, about eight months later I was in her home visiting, and she had burn marks all up her arms, and I asked her about them. She stated that she was falling asleep while smoking and she was burning herself. She was supposed to be on a sleep apnea machine that she refused to use.

She lived in the same townhouses where this other tragic fire happened on December 14, 2008. These townhouses do not meet present fire code. In the row of townhouses where the child died in December, six townhouses burned in 15 minutes flat because there were no firewalls. I live next door to this woman who was having the sleep apnea smoking issue. Obviously, a fire hazard like that is a threat to a child, and the CAS apparently did step in and removed the child again.

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I also worked in another home where the parents were severely special needs. The woman couldn't even do up her blouse to go out in public. She would just be hanging out of her bra wherever. Her child would be sent home from school to change her clothes because she didn't even know how to wear a sanitary pad at the age of 14. Two other children had already been removed from the home and had been placed for adoption, yet these two children were left in the home, and I felt it was a huge disgrace that these children were left in the home.

So yes, there are different cases. Every case is individual. Without Ombudsman oversight, you can't ensure that decisions are being based on true, factual information—

The Chair (Mr. Shafiq Qaadri): Ms. Armstrong, I'd like to thank you on behalf of the committee for coming forward and also for coming forward on a day subsequent to your original schedule.

FAMILY LAWYERS ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward, Ms. Starr, chair of the Family Lawyers Association, and entourage. Welcome. I'd invite you to please begin now.

Ms. Victoria Starr: Good afternoon. I'm Victoria Starr, chair of the Family Lawyers Association. Many of our members are lawyers who represent children and parents in child protection proceedings. I have brought with me today my colleagues Mary Reilly and William Sullivan, both members and family lawyers—child protection lawyers—in Toronto, who will be making the submissions on our behalf today.

Ms. Mary Reilly: We've provided written submissions, and I will just take an opportunity to briefly summarize what our position is.

We do agree with the proposed amendment in section 71.1 of the CFSA, which would actually extend service to children beyond the age of 18. We agree with that. We also agree with the notion that a child who's been made a crown ward with no access for the purposes of adoption should be placed with a forever family as soon as possible. Our concern, however, relates to the provisions in the bill relating to crown wards with access.

As Ms. Starr indicated, many of our members, myself, Mr. Sullivan and Ms. Starr represent children and parents in court in child protection proceedings. Often, there are orders made, either on consent of the societies or the parents, which are placed before a judge. It's determined it's in a child's best interests to be a crown ward because their biological family can no longer care for them, but it's also in their best interests to remain in contact with family, grandparents and extended community. The concern about Bill 179 is that the notion is that these children for whom it's been determined that it's in their best interests to continue contact will be available for adoption. That's not the big concern. The big concern is that there should be a presumption within the legislation itself that these children should remain in contact with parents, grandparents, extended family and community members.

The other concern is that there should be a presumption within this legislation that at the time of the hearing, an application for an openness order should be brought. The onus should be on the children's aid society, not on the parent, grandparent, community member or child who enjoys access with their family. The onus really needs to go on children's aid.

The timelines within the bill are too short: 30 days. For some parents, this would be difficult to meet. Consider the situations for a lot of people up north.

At first instance, the court determined it was in the child's best interest to have contact. In the event that, after that order was made, the family members were no longer exercising access, the children's aid societies can bring a status review to the court to have that access contact terminated. The child will be free for adoption. It's the situations where the children still have contact with families that we're most concerned about, and the process under which the bill lays it out.

In all these situations, the Office of the Children's Lawyer should be appointed to represent the children to make sure that the children's views are before the court, to make sure these children's charter rights are protected and make sure that they're properly represented in any of these openness order applications. If it's not appropriate, a court will find it not appropriate to continue the contact. There has to be a process.

The other concern is a technical one. The legislation calls for the service of these applications on a lawyer of record. Once a crown wardship with an access order is made, that is a final order. There is no longer a lawyer of

record. That part of the legislation definitely has to be amended. Because a crown wardship with an access order is final, the matter does not go back to court at that point. It's a final order, so the person no longer has a lawyer of record.

Since the openness orders were brought into the 2006 legislation, there has been very little litigation. There is one case, which is Justice Katarynych from 2009. It's the only reported decision on openness orders. Children's aid societies are very reluctant to get involved in that type of arrangement, and the focus here really has to be: What is in the best interests of the children? If the children are having meaningful and beneficial contact with their parents or extended family or community, that contact should continue, even in the event that it is determined that these children should be adopted.

Maybe at this point we could just open up to the committee for some questions.

The Chair (Mr. Shafiq Qaadri): About a minute or so per side, beginning with Ms. Jones.

Ms. Sylvia Jones: You're not the first presenter who has mentioned that the 90-day period is too short. I'm going to ask if you have a recommendation for the committee on what it should be.

Ms. Mary Reilly: I would, first of all, say that it's a 30-day recommendation.

Ms. Sylvia Jones: Yes. Sorry, 30 days.

Ms. Mary Reilly: But the onus really should be placed on the children's aid society, when the children are in contact with the parents, to bring to the court an application for an openness order. The parents would then be served. The present legislation calls for—the children's aid society gives the parent notice that they're going to adopt these children with access to them. The parents then have 30 days. I'm suggesting that it should be flipped over. The children's aid society should actually bring the application to the court. If the decision is made that these children are to be adopted, that that should be in their best interests, at the same time they have contact, it's the CASs that should be bringing that before the court.

If you don't change the legislation, you certainly have to extend that 30-day period. It's not long enough.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Prue.

Mr. Michael Prue: I like your idea on the presumption of contact; therefore it would be up to the children's aid to make a case as to why there should not be contact between the parent and the child. How would that work in legal terms—they'd have to go to court and a judge would have to listen to all the reasons why contact ought not to be made? Other than that, it would be.

Ms. Mary Reilly: They would have to bring what's called a status review under the legislation if there had been a final order. Crown wardship with access is a final order. They bring a status review and they ask the court to terminate the access. The parent or the person who was having contact responds, and it would be up to a judge ultimately to determine whether that access should be terminated.

In the case of where you're looking at adopting children with access, what we're suggesting is that the children's aid society needs to bring the application for the openness order or bring an application to the court saying why access is no longer in that child's best interest.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Mr. Colle.

Mr. Mike Colle: It kind of sounds like a courtroom here. It's kind of complex. But there are very valid bits of information and procedural nuances that I think are really worth considering. Certainly I'll make sure to ask the questions about why we can't look at your suggestion. I really thank you for bringing those forward, because you're on the front lines of this thing and I think your input is very important. So thank you very much.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Starr, Ms. Reilly and Mr. Sullivan, for your deputation on behalf of the Family Lawyers Association.

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MS. SHANNA ALLEN
MS. RESHMA SHIWCHARRAN
MS. KAYLA SUTHERLAND

The Chair (Mr. Shafiq Qaadri): I'd invite our next presenters to please come forward: Ms. Allen, Ms. Shiwcharran and Ms. Sutherland. Welcome. Please begin.

Ms. Shanna Allen: Hello. My name is Shanna Allen, and I am a crown ward from the Sarnia-Lambton children's aid society.

I've reviewed this bill, and I can imagine many positive outcomes in retrospective, but I have some questions and concerns.

First of all, I would like to state that this bill is very broad and confusing at times. I believe that if this bill is to be passed, there will need to be much more clarity on what actions are actually going to take place.

First of all, I want to address section 71.1 of the Child and Family Services Act: "A society or agency may provide care and maintenance in accordance with the regulations to a person" who is 18 years of age, specifically "may provide." This is a very broad statement. I believe that if the bill is going to be passed, we should be guaranteeing that all youth can come back. It is important that the bill is allowing all youth who leave care to come back until their 18th birthday or beyond their 18th birthday. Any other child with a family who left home before 16 would be able to come back. Children and youth in care right now don't have that option, so it's important that those youth have the option, because if not, those youth become homeless or are put into the same cycle of abuse, neglect etc. Again, this is why it's important that we change it to "will provide," not "may provide."

Looking at adoptions, I believe the bill surrounding adoptions is terrific because it eliminates so many

barriers around adoptions and creates more opportunities for crown wards to be adopted. I believe it is also important to create "forever families" for these crown wards rather than getting them terminated at age 21.

I can personally say that, as a crown ward after my mother passed away, I would have really liked to be adopted but never got the opportunity. I turn 20 in a couple of days, and I cannot say I'm really excited, like most other teens my age. Age 21 is not going to be a birthday that I'll celebrate; it will definitely be one that I'll be dreading. I will lose most of my social support, emotional support and financial support. I would have loved to have been adopted and, again, I never had the opportunity.

The only concern I have with the bill is that promoting adoptions with a neutral budget can cause a lot of flaws and problems. I pose the question: What will happen to crown wards and youth who have additional needs—for example, children and youth who have disabilities, youth who plan on going to post-secondary, and children and youth who have really high medical expenses? We know right now that low-income families cannot adopt those children, and we can possibly say that those children and youth have lower chances of getting adopted because of these circumstances. Again, what will happen to those children and youth?

Also, I would like to address that I'm really excited about the part of the bill focusing on supporting youth to be successful, but I'd like to know how the bill is going to address exempting CAS financial support—the ECM—counting as income on OSAP applications. I believe that it is important to address this issue as it directly affects all crown wards in post-secondary or who are planning to attend post-secondary. As well, it affects myself.

Ms. Reshma Shiwcharran: My name is Reshma Shiwcharran, and I'm currently a crown ward. I am in favour of this bill. However, it is way too broad and it really does need to be changed to "will" allow youths that are ages 16 to 18 to come back into care if possible.

Also, I believe that there should be a process of allowing those youth back into care. In some situations, you might have some youth that will be abusing the system. They should be given a chance to prove that, once they're back in care, they will not abuse that system and they will actually use the resources given by the CAS.

Also, I believe that as far as the adoption piece, we really need to look at how to help families who are adopting kids with disabilities and high medical expenses, because even though some families are qualified to adopt, at the end of the day there might be an emergency situation where the family loses a large part of their income and for a period of time is not able to properly support that child. I would like to know if it is possible that the CAS or the government would be able to help that adoptive family to provide for the youth in care that was adopted for the specific amount of time that they're financially unable to support that child.

Also, as far as allowing youths back into care who are under the age of 18, how will that affect the funding and the programs and the resources available to youth who are currently in care and who are planning to stay in care until their 18th birthday or moving on to ECM?

Ms. Kayla Sutherland: At this time, if you leave care when you're 18 years old, you can go back. Previously to this bill, if you left care when you were 16 years old, you would not be allowed back in care. Now you can. If you're in care, you can go right before your birthday.

I missed that boat by a week. I'm 18 years old and homeless. My mother is very mentally ill and sick. There are a lot of other youth that are going to be in this boat. We can't go back into care, we can't get ECM, and we have nothing. We're trying to finish school.

It should be changed so that they can go back, even though they left when they were 16 years old. Of course they wanted to be with their parents; that's the kind of decision most children make. But just because they went running to their parents, it doesn't mean it was a good decision, and now they've been left with nothing.

The Parliament, which was our parent for years, has now abandoned us as well, and they won't pick up the pieces that our parents dropped. It's not fair for those youth. It should be changed so that they can go back, even though they're 18 years old.

The Chair (Mr. Shafiq Qaadri): Thank you. We have about a minute or so per side, beginning with Mr. Prue.

Mr. Michael Prue: We've had a number of people talk about children going back. One deputant said that that should happen at least one time, up until you're 21. Others have said that maybe you can go back many times, depending on whether the children's aid agrees. What is your position? Should you be allowed to automatically go back at least once, or should you go back many times? Should they have the say as to whether or not you can come back?

Ms. Kayla Sutherland: A process should have been done better, to be honest, as to what care you were put into. I was let into shelters. That was not a good plan of care for a CAS to put a child into. Why would they just let a child go into an unstatused home? A stable home should be necessary. If that wasn't made, then why were they let back into their care?

Mr. Michael Prue: Have you got something to say on that?

Ms. Shanna Allen: I—

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there. Mr. Colle.

Mr. Mike Colle: You three ladies have been very succinct and have done a very important task here by letting us have some insight into your real-life experiences of being crown wards. It's hard to get back and forth with the questions, but I certainly hope that staff will follow up on some of the comments you made, especially the young lady on the left, who found herself just—you said a month?

Ms. Kayla Sutherland: My birthday was April 29. I just missed it.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Shanna, can you answer the question that you were about to answer?

Ms. Shanna Allen: I was just going to say, I think it is important to allow people to come back until they're 21, because the services are there for the youth who didn't leave. I think it's important that it is reviewed, possibly by the CAS. Yes, it might cause a little bit more work for the CAS workers. I think that if they're abusing the system, then I don't think it necessarily should be provided. But I definitely don't think 18 should be a cut, because then we're just going to come back to the same problem.

At 16, 17, 18, we sometimes make decisions that aren't always the best decisions. Just because someone made it at 16—someone else might make the same decision at 18. I definitely think there needs to be some type of cut-off. I just think it really needs to be clarified, because it's worrisome when you look at this, and it doesn't really make complete sense. It just kind of seems like—

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Allen, Ms. Shiwcharran and Ms. Sutherland, for your deputation.

PROVINCIAL ADVOCATE FOR CHILDREN AND YOUTH

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Mr. Elman of the Provincial Advocate for Children and Youth office. Welcome. Please begin.

Mr. Irwin Elman: Thank you for having me here again. As you know, I'm the Provincial Advocate for Children and Youth. My job is to elevate the voices of children and youth, particularly children and youth connected to care, and then, again, particularly crown wards. So this bill, this opportunity, is really important. I thank the young people who spoke before me.

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I wanted to say that you know, and this committee knows, that I believe the children we're talking about are the province's children and they're your children. I explained that before. So the young people that you've just heard were your children.

When I think about this bill, I think about the government dipping its toe in the water. I use that metaphor because I was with my seven-year-old child, teaching him to swim on the weekend. He was at the edge of the pool, and he just dipped his toe in the water; he was getting ready. You know, those children, when they're ready to jump in, they dip their toe in the water, perhaps out of fear, perhaps to check the temperature, but not ready to dive quite yet. You're encouraging them, and that's what I'm saying to the government. I'm encouraging you to continue this debate about family, connection, the importance of community—the things that young people in care, crown wards, have told us are crucial to their success later on. This bill is the beginning of a dialogue, not the end a dialogue—just the beginning.

When I think about this—and I've travelled the last year speaking to probably 1,000 young people in and from care and service providers—I remember a young man who said, and I wrote it down, "I came into care when I was eight years old. I moved around from home to home until I landed in a foster home at age 12. I really liked it there. They told me they loved me, and after a while, I told them I loved them. Close to my 18th birthday they told me that I was going to have to leave. I was so hurt. I mean, I said I loved them. I left that home and I never went back. They said it was the rules, but what type of family does that after they say, 'I love you' and let you say, 'I love you' back? I was so depressed. I'm surprised I'm still here."

I also remember meeting a group of crown wards in I think it was Guelph; it could have been North Bay, but I'm pretty sure it was Guelph. They said, "You have to remember that when you say 'We're building forever families,' we do have families. You can't pretend, especially when we're older and you're considering adopting us, that we don't have families. And sometimes our families are brothers, are sisters, are aunts, are uncles, are moms or fathers that we're still connected to, but sometimes, just as much, they're our friends."

This group said, "We have each other. We've gotten to know each other. We understand each other. We've been through the same stuff, and we're family members too. Sometimes a worker, a counsellor or a teacher is a member of our family, somebody whom we've connected to." They said, "We choose our friends and we choose our families. That's the nature of growing up as a crown ward in care. We need you to argue for opportunities for allowing us to choose our families sometimes, because adoption isn't for everyone. It's important, but adoption isn't for everyone."

That discussion with young people about how to create these what I call, "positive connections"—the bill calls them family. Before, we talked about permanency. We're not talking about that now, but it's the same thing. Those discussions about how to create them is diving into the pool. Maybe it takes courage—I'm not quite sure why it takes courage—but it's not sticking your toe in. The rules about adoption are really important. That's where we're at. So I do want to say something about Bill 179, but I think the discussion is more important to have it more broadly, and our children deserve that.

Around Bill 179: There are no targets set for how many children this is going to impact, how many adopted families there are going to be from this bill. I understand that there are many, many thousands of children with access orders essentially not being used, but how many young people are going to find families through this bill? I think it's important to set a target for that, and then look at seeing if we're meeting that target. Is the bill working? I believe that's something that is endemic to child welfare, that we set up a system but oftentimes don't have targets or expected outcomes for the children in the system, the crown wards. I think that's something we should do.

In terms of adoption subsidies, I actually believe in them. It's kind of a no-brainer; of course we should have adoption subsidies. The government has become the parent of children, and other people are willing to step forward. If they're special needs, those people should be supported if they can't provide for those children, in terms of special needs.

I believe probably the centralization of adoption, as the Raising Expectations report suggested, at least in terms of coordinating adoption services if not taking over adoption planning—that might stay with the local children's aid societies, but some centralized coordinating function of the ministry probably needs to happen to ensure that adoption happens consistently across the province.

I want to talk just briefly about the 16- and 17-year-olds. I was ecstatic, actually, when I heard that 16- and 17-year-olds were going to be allowed to come back into care. They were going to be allowed to come home again, if they had decided to leave or the agency had decided to let them go. Quite frankly, it's not in the bill; it's not there. The way in which to put it into the bill, I believe, most easily—and you've heard this before, I think—is to raise the age of protection to 18, the way most other provinces have. That would also allow young people who live in foster care, if they chose and the foster parent chose, to stay in foster care past 18. Those are important recommendations. That's about diving in.

The other thing I want to say is that we heard some talk about OSAP with the announcement of this bill, that extended care maintenance funds would not be used to calculate income when OSAP was being considered for a crown ward or former crown ward who was attending post-secondary education. I had made a very similar suggestion, that extended care maintenance should also not be considered if a young person was trying to pay geared-to-income rent, and it should not be calculated in the very same way. To me, it indicates the need for a whole government approach.

I fail to see how one part of the government—training, colleges and universities, which handles OSAP—can say, "This is a very valuable possibility for our children," and another part of the government—in this case it was the Ministry of Municipal Affairs and Housing—says, "No, this is not appropriate." This indicates to me that there's a need to look holistically, to have a whole-government approach, perhaps the way the Select Committee on Mental Health and Addictions did, a non-partisan approach to finally tackling the way in which our crown wards are leaving care and provide for them better so that they have better outcomes. I'd like to suggest that's a possibility we can do for our children.

I'm willing to take questions.

The Chair (Mr. Shafiq Qaadri): We have 30 seconds or so per side, beginning with Mr. Colle.

Mr. Mike Colle: Thank you for your very thoughtful presentation. I guess the question I have is about targets. How can you set targets when you don't really know how many potential adoptive parents are going to make themselves available and how the process is going to work out in favour of the child and the parent? If you have targets, you're going to somehow artificially push toward those numbers when in fact you don't have qualified people to be parents.

Mr. Irwin Elman: We have parts A and B, and I know I have 30 seconds, if I can answer the question.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Ms. Jones.

Mr. Irwin Elman: I can't answer the question. Okay.

Mr. Mike Colle: You can tell me later.

Mr. Irwin Elman: Okay, I'll tell you later. There is an answer to that question.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Jones—oh, sorry. Mr. Arnott.

Mr. Ted Arnott: If you'd like the time to answer the question, I'd certainly be prepared to—

Mr. Irwin Elman: The first is part B. Of course, you would never push for an adoption that wasn't going to be effective; you need to be sure that this is going to work before you accept that.

But the first part of the question—I worked in the field for so many years, in many agencies, funded by many different governments. We were given money, for instance, to help young people find employment. The funding didn't say, "Find those jobs, figure out how many jobs are out there, and then you can get the youth and match them up, and aha, we're successful." That's not the purpose of service; right? We set a target and say—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Prue.

Mr. Michael Prue: Just keep going.

Mr. Irwin Elman: Thank you. I'm sorry.

There are X thousand young people who need these "forever" families. We know these cases; the ministry doesn't, actually. They should have a body of knowledge so they know information about how many of those 7,000 could potentially be adopted, and then set a target and a strategy for how we're going to find the families for them. We need some kind of goalpost; otherwise, we're never going to score.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue, and thanks to you, Mr. Elman, for your deputation on behalf of the Provincial Advocate for Children and Youth.

That concludes our public testimony. I'd just remind committee members that the deadline for amendments is this Friday at 5 p.m. and we will reconvene here on Monday, May 30, at 2 p.m. for final clause-by-clause consideration. Committee is now adjourned.

The committee adjourned at 1600.

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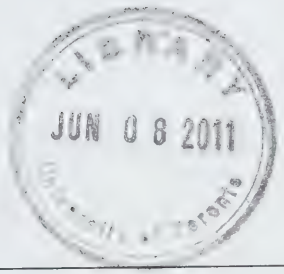

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Deuxième session, 39e législature

Official Report of Debates (Hansard)

Monday 30 May 2011

Journal des débats (Hansard)

Lundi 30 mai 2011

Standing Committee on Social Policy

Comité permanent de la politique sociale

Building Families and Supporting Youth to be Successful Act, 2011

Loi de 2011 favorisant la fondation de familles et la réussite chez les jeunes

Chair: Shafiq Qaadri
Clerk: Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 30 May 2011

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 30 mai 2011

The committee met at 1401 in committee room 1.

BUILDING FAMILIES AND SUPPORTING YOUTH TO BE SUCCESSFUL ACT, 2011

LOI DE 2011 FAVORISANT LA FONDATION DE FAMILLES ET LA RÉUSSITE CHEZ LES JEUNES

Consideration of Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance / Projet de loi 179, Loi modifiant la Loi sur les services à l'enfance et à la famille en ce qui concerne l'adoption et les soins et l'entretien.

The Chair (Mr. Shafiq Qaadri): Colleagues, welcome. As you know, we're here to do clause-by-clause consideration of Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance.

Are there any further amendments to be brought forward for consideration? If not, we'll proceed to amendment 1 by the NDP. Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"(0.1) The Child and Family Services Act is amended by adding the following section:

"'Residential placement over age 18

"'27.1 A child who is in a residential placement immediately before his or her 18th birthday may remain in a residential placement after his or her 18th birthday in accordance with the regulations.'"

If I could, this is pretty simple and straightforward: It's to allow a child who is in foster care prior to their 18th birthday to stay in care after their 18th birthday. We think that there's nothing magical about that date. If the child wants to stay in care, if the care is beneficial to him or her, they should be allowed to stay there.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Further comments? Mr. Colle.

Mr. Mike Colle: This motion is outside the scope of the bill, as it requires amendments to sections of the Child and Family Services Act that are not currently being amended by the bill. So we cannot support this amendment.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Ms. Jones.

Ms. Sylvia Jones: While in specifics it may be outside the scope of it, I am quite happy to support asking for unanimous consent to include it, because it clearly is part of what we're trying to improve with making amendments to the Child and Family Services Act.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: This issue was raised repeatedly by speaker after speaker who came before this committee, and it fits into the general theme of what we are attempting to do—certainly what the NDP hopes happens as a result of this bill: to increase support for children and youth in care. I'm a little taken aback that the parliamentary assistant does not want to include this. I do understand, perhaps, the legalities, but I think my colleague Ms. Jones is making a good point: that we could do the right thing by this bill by simply allowing children who are in care to remain in care on their 18th birthday.

The Chair (Mr. Shafiq Qaadri): Thank you. Are we ready to proceed to the vote?

Mr. Michael Prue: A recorded vote, please.

Ayes

Jones, Prue.

Nays

Colle, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): That's defeated.

We'll proceed now to PC motion 2: Ms. Jones.

Ms. Sylvia Jones: I move that the bill be amended by adding the following section:

"0.1 The definition of 'child' in subsection 37(1) of the Child and Family Services Act is amended by striking out 'sixteen' and substituting 'eighteen'."

The Chair (Mr. Shafiq Qaadri): With regret, Ms. Jones, I inform you, as I am informed, that this particular section is out of order and will therefore not be considered.

Ms. Sylvia Jones: May I then call for all-party support to have it included?

The Chair (Mr. Shafiq Qaadri): You may certainly do so. Does Ms. Jones have all-party support to include—Mr. Prue?

Mr. Michael Prue: I'm going to support it. Changing the definition of "child" was requested by the Provincial—

The Chair (Mr. Shafiq Qaadri): Mr. Prue, if you'll pardon me—

Interjection.

The Chair (Mr. Shafiq Qaadri): We're now speaking to the idea of asking for unanimous consent to consider it. Do I have unanimous consent? I sense that I do not have unanimous consent and therefore I will have to continue to rule PC motion 2 out of order. You are welcome to make some comments, though, Mr. Prue, should you wish.

Mr. Michael Prue: Okay. Perhaps I should save that for number 3, but I anticipate that you're going to rule that out of order because it's identical. The comments I want to make are that the Provincial Advocate for Children and Youth, among other stakeholders, suggested that this was a necessary thing that we do. It would ensure that older children requiring care are eligible for services between the ages of 16 and 18 and that they will be eligible for extended care and maintenance. As Mr. Elman said, the current age of 16 is inconsistent with other provincial legislation. Just to note some of them: the Education Act, the age of majority and the Children's Law Reform Act all state 18. We think that changing it to 18 will make this bill and what is happening to crown wards consistent with every other piece of legislation that defines the age of majority in Ontario.

The Chair (Mr. Shafiq Qaadri): Ms. Jones?

Ms. Sylvia Jones: The reality is, we don't open up and amend these pieces of legislation every year. We have an opportunity here today to actually make some improvements that will basically extend from 16 to 18. It's not a huge leap, and yet it is a change that would make a substantive difference in the lives of children who are currently in care. I'm disappointed that the Liberal members of the committee have chosen not to allow us to even discuss the idea of the motion.

The Chair (Mr. Shafiq Qaadri): Thank you. NDP motion 3, Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"0.2 The definition of 'child' in subsection 37(1) of the act is amended by striking out 'sixteen' and substituting 'eighteen'."

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue, and as you have anticipated, with equal regret, I rule that out of order.

If there are comments from any side, they are welcome. If not, we'll proceed now to NDP motion 4, with reference to section 1. Mr. Prue.

Mr. Michael Prue: I move that section 1 of the bill be struck out and the following substituted:

"1. Section 71.1 of the act is repealed and the following substituted:

"'Extended care

"'71.1(1) A society may provide care and maintenance to a person who is 18 years of age or more in accordance with the regulations if,

"'(a) a custody order under subsection 65.2(1) or an order for crown wardship was made in relation to that person as a child; and

"'(b) the order is in effect at least until immediately before the child's 16th birthday.

"'Same, Indian and native person

"'(2) A society or agency may provide care and maintenance in accordance with the regulations to a person who is an Indian or native person who is 18 years of age or more if,

"'(a) immediately before the person's 16th birthday, he or she was being cared for under customary care as defined in section 208; and

"'(b) the person who was caring for the child was receiving a subsidy from the society or agency under section 212.'"

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By way of background, we believe that these changes will ensure that extended care and maintenance can be provided to any youth who had been receiving care prior to their 16th birthday, regardless of whether the care continued until the age of 18. This was requested by the Provincial Advocate for Children and Youth; it seems a very good idea to me.

The Chair (Mr. Shafiq Qaadri): Ms. Jones?

Ms. Sylvia Jones: I support this amendment. It's very similar to one I intend to bring forward.

The Chair (Mr. Shafiq Qaadri): Mr. Colle?

Mr. Mike Colle: The sentiments are commendable. The problem is that the drafting and the wording are very unclear. Government motion number 7 will address this issue and enable youth who have left care, including formal customary care, at ages 16 or 17 to return to their CAS at any time until the age of 21 to receive financial and other supports. I can't support it, but we are going to address this in government motion number 7.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Michael Prue: I would submit that number 7 talks in general terms but does not deal specifically with persons subject to the Indian Act or a native person. This is what causes me some concern with the government's reluctance. Your own motion number 7 makes no such reference. Perhaps if you could tell me why it makes no reference and then ask me to support yours, I might consider it, but I'm not sure that it's going to help First Nations people.

Mr. Mike Colle: Just briefly, as you know, there's a broader discussion taking place with our First Nations residents. That's ongoing, and that is going to be a subject of these ongoing discussions that are taking place with the minister. The minister started that with her visit to Thunder Bay, so that will be addressed with those future discussions.

Mr. Michael Prue: If I could, I had phone calls over the weekend from many groups from the north, but one woman in particular, saying that there had been no discussions. She asked me to ensure that First Nations people were looked after within the body of this bill because, without something happening with this bill, they are unsure, and I too am unsure, when these discussions that have just begun will bear fruit. In the meantime, First

Nations children will be left out in terms of the customary care provisions unless motion 4 carries.

The Chair (Mr. Shafiq Qaadri): If there are no comments, we'll proceed to the vote. Those in favour of NDP motion—

Mr. Michael Prue: Recorded vote.

Ayes

Jones, Prue, Witmer.

Nays

Colle, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 4 is defeated.

NDP motion 5.

Mr. Michael Prue: Because number 4 has been defeated, I have provided the clerk a motion 5.1. Motion 5 is not correct because it's relying on 4 having passed. If I could withdraw 5 and introduce 5.1, I would prefer that.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Just procedurally, 5.1 is added; 5 is withdrawn. Please proceed.

Mr. Michael Prue: I move that section 1 of the bill be amended by adding the following subsection to section 71.1 of the act:

"Same

"(4) A society or agency may provide care and maintenance under subsection (1), (2) or (3) to a person in accordance with the regulations until immediately before the person's 26th birthday."

I think the rationale here is quite clear. This was requested, again, by Mr. Irwin Elman as well as numerous other stakeholders. This brings support for youth who were previously in care to a more realistic age cut-off by expanding extended care and maintenance until the age of 25. We think that this is in keeping with what most families do with their children. It is not uncommon today to have children living at home until the age of 25. I dare say some of the members opposite may, indeed, have children living at home in that age range. What we are saying is that people who are crown wards are in fact children of the state, and they ought to be accorded the same considerations as we would accord our own children.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Further comments? Mr. Colle.

Mr. Mike Colle: Yes. There are most significant cost implications for government in extending the age of extended care and maintenance from 21 to 26. Young people over the age of 21 also have access to a range of other government and community supports. So given the cost implications of this extension to 26, we cannot support this amendment.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments before we proceed to the vote?

Mr. Michael Prue: Recorded vote, please.

Ayes

Prue.

Nays

Colle, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 5.1 is defeated.

PC motion 6: Ms. Jones.

Ms. Sylvia Jones: I move that subsection 71.1(3) of the Child and Family Services Act, as set out in section 1 of the bill, be struck out and the following substituted:

"16 years of age or more

"71.1(3) Despite subsection (1), a society may provide care and maintenance in accordance with the regulations to a person who is 16 years of age or more if,

"(a) immediately before the person's 16th birthday, a custody order under subsection 65.2(1) or an order for crown wardship in relation to the person was in effect; and

"(b) the person leaves care under the custody order or crown wardship order when he or she is 16 or 17 years of age.

"Same, Indian or native person

"(4) Despite subsection (2), a society may provide care and maintenance in accordance with the regulations to a person who is an Indian or native person who is 16 years of age or more if,

"(a) immediately before the person's 16th birthday, he or she was being cared for under customary care as defined in section 208;

"(b) the person who was caring for the child was receiving a subsidy from the society or agency under section 212; and

"(c) the person leaves customary care when he or she is 16 or 17 years of age."

I'm bringing forward this amendment because it was recommended by the Ontario Association of Children's Aid Societies. Youth in care at age 16 or 17 should be provided with care and maintenance until 21 years of age, whether they leave care at 16 or 17 or not.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Mr. Colle.

Mr. Mike Colle: Government motion 7 addresses this issue and enables youth who have left care at ages 16 or 17, including formal customary care, to return to their CAS at any time until age 21 to receive financial and other supports. Explicitly including 16- and 17-year-olds in the legislation could have the unintended consequence of promoting youth to leave care prematurely.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Further comments? Mr. Prue.

Mr. Michael Prue: I still have the same question: How does number 7 relate to First Nations communities?

Mr. Mike Colle: Again, in terms of—the change in this legislation is focused on a number of specific areas. In terms of the First Nations community, there is an

extraordinary effort going on with the minister and with her adviser, Beaucage, who has already undertaken a significant attempt to try to include many other very unique factors dealing with the First Nations community that they are very sensitive to. Those discussions have to take place in a thorough, wide-ranging manner before those other changes take place.

Mr. Michael Prue: So am I correct in assuming, then, that First Nations people will not be included or will not have their concerns included until, at the earliest, the next Parliament?

Mr. Mike Colle: Again, the discussions and the dialogues are taking place as we speak, and that's already started last month. They're much more wide-ranging than just this specific piece of legislation.

Mr. Michael Prue: It's not possible to have them included today or tomorrow, so therefore it's not possible to have them included in the bill. And since we're not coming back after next week, it's safe to assume that they will be left out until the next Parliament.

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Mr. Mike Colle: Again, as I said, there are some very specific issues that Bill 179 deals with that include First Nations and all children in the province. But then there's a wider-ranging evaluation taking place that goes beyond the scope of this bill.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to the vote. Those in favour of PC motion 6? Those opposed? PC motion 6 is defeated.

Government motion 7.

Mr. Mike Colle: Okay, I should read it. I move that subsection 71.1(3) of the Child and Family Services Act, as set out in section 1 of the bill, be struck out and the following substituted:

"Same, prescribed support services

"(3) A society or agency may provide care and maintenance in accordance with the regulations to a person who is 18 years of age or more if, when the person was 16 or 17 years of age, he or she was eligible for support services prescribed by the regulations, whether or not he or she was receiving such support services."

This amendment would provide a greater safety net for this vulnerable youth population, as more youth would be eligible to re-engage with their CAS to receive supports until the age of 21. This will enable CASs to enter into an ECM agreement with youth who may have faced extenuating circumstances, such as serving a secure-custody sentence or who did not wish to receive supports at age 16 or 17.

The Chair (Mr. Shafiq Qaadri): Comments on government motion 7? We'll proceed to the vote, then. Those in favour of government motion 7? Those opposed? None opposed. Carried.

PC motion 7.0.1.

Ms. Sylvia Jones: I'd like to pull that one, Chair.

The Chair (Mr. Shafiq Qaadri): Pardon me? Oh, it's withdrawn.

Ms. Sylvia Jones: Yes, withdrawn. Sorry.

The Chair (Mr. Shafiq Qaadri): Okay, fair enough. NDP motion 7.1.

Mr. Mike Colle: Excuse me, I just missed that. I'm sorry.

Interjection: Withdraw.

Mr. Mike Colle: Okay, so one second, then. PC motion 7.1 is—

Ms. Sylvia Jones: No, 7.0.1.

Mr. Mike Colle: Motion 7.0.1 is withdrawn. Okay, thank you.

The Chair (Mr. Shafiq Qaadri): And I presume we are now on NDP motion 7.1. Mr. Prue.

Mr. Michael Prue: I move that section 1 of the bill be amended by adding the following subsections to section 71.1 of the act:

"Resuming receipt

"(4) Subject to the terms and conditions in this section, a person who chooses to stop receiving care and maintenance under this section may choose to resume receiving it.

"Same

"(5) Subsection (4) applies where the person has chosen to stop receiving care and maintenance on one occasion or, at the discretion of the society or agency providing the care and maintenance, on more than one occasion."

The rationale for this is that this was requested by numerous stakeholders and gives youth a second chance. This would allow youth who were previously receiving extendeded care and maintenance, and then stopped receiving it, to re-enter into the program a minimum of once, and more than once with the discretion of the agency.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Colle or Ms. Jones?

Mr. Mike Colle: Okay. The current provisions in the CFSA and in the ECM, the extended care and maintenance policy, permit youth between the ages of 18 and 21 to return to their CAS to resume receipt of ECM supports. This makes it explicit that they can come back. Stakeholders may ask why this has been listed explicitly, and it could be redundant to the sector as it is embedded in practice. So we cannot support it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Further comments? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 7.1? Those opposed—

Mr. Mike Colle: Just one second.

The Chair (Mr. Shafiq Qaadri): Yes.

Mr. Mike Colle: I just want to clarify this. Just the extenuating note here: There is a redundancy here but it is essentially in line with what we're doing, so it's not something we would oppose. Therefore, we're not opposed to it. There's a redundancy to it but it is in concert with the bill itself, so we're in support of it. Sorry for the mix-up.

The Chair (Mr. Shafiq Qaadri): We will now revote. Those in favour of NDP motion 7.1? Those opposed? NDP motion 7.1 is carried.

PC motion 8.

Ms. Sylvia Jones: I move that section 1 of the bill be amended by adding the following subsection to section 71.1 of the act:

"Full-time education program

"(5) A society may provide care and maintenance under subsection (1), (2), (3) or (4) to a person in accordance with the regulations until immediately before the person's 26th birthday if he or she is enrolled in a prescribed full-time education program."

This was recommended by a number of stakeholders, including the Children in Limbo Task Force, and it would allow for extended care and maintenance.

The Chair (Mr. Shafiq Qaadri): Leg. counsel.

Ms. Vanessa Yolles: I believe, just to be in line with the earlier motions and motion 6 not carrying, this motion should be reworded slightly to say, "A society may provide care and maintenance under subsection (1), (2) or (3)" without the (4).

Ms. Sylvia Jones: Okay. I'm happy to bring forward that change.

The Chair (Mr. Shafiq Qaadri): Are we clear on that change to PC motion 8?

Mr. Mike Colle: Can you repeat that, please?

Ms. Sylvia Jones: I can do that.

I move that section 1 of the bill be amended by adding the following subsection to section 71.1 of the act:

"Full-time education program

"(5) A society may provide care and maintenance under subsection (1), (2) or (3) to a person in accordance with the regulations until immediately before the person's 26th birthday if he or she is enrolled in a prescribed full-time education program."

The Chair (Mr. Shafiq Qaadri): Are all the parties agreed? We'll proceed, then. Are there further comments on PC motion 8? Mr. Colle.

Mr. Mike Colle: There are very significant cost implications to extending the age of ECM to age 26. Further, it may be considered to be discriminatory if such an extension were offered only to youth in full-time educational programs. Young people over the age of 21 have access to a range of other government and community supports. We cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: The reality is, part of what the government was purporting to do with changing the Child and Family Services Act was to encourage more children in care to continue with their education. I think this amendment very clearly does that. Where we are differentiating between full-time and part-time, it's simply because there is more assistance needed when someone is going to school full-time as opposed to an occasional student who may be taking a night-time course or one course.

The Chair (Mr. Shafiq Qaadri): Any further comments on PC motion 8? We'll proceed to the vote. Those in favour of PC motion 8? Those opposed? PC motion 8 is defeated.

We'll proceed to consider this section. Shall section 1, as amended, carry? Carried.

Shall sections 2 to 5, inclusive, carry? Carried.

Section 6, PC motion 9.

Ms. Sylvia Jones: I move that subsection 145.1.1(2) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following paragraph:

"3. If the child is an Indian or native person, a representative of the child's band or native community."

Again, this is a recommendation coming out of our public consultation, and I'm hoping that we can continue to encourage involvement in First Nations communities.

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The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Prue.

Mr. Michael Prue: As I understand it, currently an aboriginal child in care whose CAS intends to place them for adoption has no obligation to inform the child's band or native community. We are in agreement—we have an identically worded motion that follows—that this motion would obligate the CAS to provide 60 days' written notice to the band or to the native community so that the child would be protected and so that their status and rights as a First Nations person would be respected. I will be voting in favour of this.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Colle.

Mr. Mike Colle: This amendment requires consultations with First Nations stakeholders. There's a great deal of sensitivity to this. The CFSA currently has a strong notice provision, i.e., section 141.2, that requires CASs to give written notice to a relevant band that is intending to begin planning for adoption of an Indian or native child. The band then has 60 days to prepare and submit its own plan for the child to the CAS. The CAS may not place the child during that time and must consider any plan submitted. For example, the First Nation may submit a plan that demonstrates the willingness of the band, the child's parents and the CAS to enter into a formal customary care agreement.

Recently, Minister Broten hosted the first-ever aboriginal child welfare summit. She's working to find solutions that allow our aboriginal children to have a good life, good health and successful future through this extended consultation that is taking place under the advice of John Beaucage.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: It's lovely that the minister has had one meeting in her two-years-plus term as the minister. This amendment would make a substantive suggestion that is in legislation that I think is a little more important, quite frankly, than one meeting.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: I've listened to the parliamentary assistant, but this specific wording and request came from the Ontario Association of Children's Aid Societies. Obviously, they don't think that the protection that the parliamentary assistant is talking about is there. I trust their expertise. I honestly believe that if we put this in and the minister's discussions are fruitful and if something else

will take its place, I would gladly yield what is here, but in the meantime, this may be the only protection that there is, at least as far as the Ontario Association of Children's Aid Societies is concerned.

The Chair (Mr. Shafiq Qaadri): Mr. Colle.

Mr. Mike Colle: Certainly, the CASs have a perspective, but again, let me repeat: The amendment requires consultations with our First Nations. There is a great deal of sensitivity on their behalf to making changes in this area without full consultation with the First Nations.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. Those in favour of PC motion 9? Those opposed? PC motion 9 is defeated.

NDP motion 10.

Mr. Michael Prue: I will withdraw it. It has no chance of success; it's identical to the one that was just voted down.

The Chair (Mr. Shafiq Qaadri): NDP motion 10 is withdrawn.

PC motion 11.

Ms. Sylvia Jones: I move that paragraphs 3 and 4 of subsection 145.1.1(3) of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

"3. In the case of notice to a person described in paragraph 1 or 3 of subsection (2), the fact that the person has a right to apply for an openness order within 30 days after notice is received.

"4. In the case of notice to a person described in paragraph 2 of subsection (2), the fact that the persons described in paragraphs 1 and 3 of subsection (2) have the right to apply for an openness order within 30 days after notice is received."

The Chair (Mr. Shafiq Qaadri): Ms. Jones, I understand that this amendment that you've just proposed, PC motion 11, was dependent on PC motion 9, which, as you know, was defeated.

Ms. Sylvia Jones: Unfortunately true.

The Chair (Mr. Shafiq Qaadri): Truth always emanates from the Chair, so I will consider that withdrawn.

NDP motion 12.

Mr. Michael Prue: I believe that this is pretty much the same as what just happened, so there's no sense in reading it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. It is the same truth operating continuously.

We'll now move to PC motion 13.

Ms. Sylvia Jones: I move that paragraphs 3 and 4 of subsection 145.1.1(3) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by striking out "30 days" wherever it appears and substituting in each case "60 days".

This was a recommendation by the Foster Care Council of Ontario. I think it's really just an acknowledgement that we need to give children's aid societies and individuals who are affected in any possible placements the appropriate time to be contacted and think about the decision that they're making, which, obviously, is very important.

The Chair (Mr. Shafiq Qaadri): Mr. Prue?

Mr. Michael Prue: I'm going to support this motion. It is identical to motion 14, which we have put in ourselves.

Many of the people who came forward talked about the speed at which this operation may take place: giving a parent only 30 days' notice in which to try to get their lives in order and to try to get information, a lawyer and everything else they need before a very important and sometimes tragic decision is made in their lives.

It would seem to me that we should act to support all of those parents, all of those children, all of those people who may be affected by adoption in this way by giving them the time necessary to do that which they need to do in order to protect their rights and the rights of their children. It seems that 60 days is far better, in terms of a time frame, than 30 days. Speaker after speaker talked about it being rushed, and I tend to agree and would ask the government to support 60 days instead.

The Chair (Mr. Shafiq Qaadri): Mr. Colle?

Mr. Mike Colle: In response: The 30-day notice period to make an application for an openness order is intended to balance the need to minimize the length of time before a child can be placed for adoption and to provide sufficient time to the person whose access will be terminated to apply to the court for an openness order.

The 30-day notice period to bring an application for an openness order is also consistent with other notice periods in the family law rules.

The Chair (Mr. Shafiq Qaadri): Ms. Jones?

Ms. Sylvia Jones: Could you provide us with some examples of 30-day notices?

Mr. Mike Colle: It's my information that it's normal practice to have a 30-day notice period within the family law—

Ms. Sylvia Jones: But I was looking for specific examples.

Mr. Mike Colle: I can't give you that.

Ms. Sylvia Jones: If I may, Chair: This is a pretty important decision, to put it mildly. I in no way am trying to bring forward this amendment to discourage or delay, but I don't think that 60 days is an unreasonable request for what ultimately is a life-changing relationship between a birth parent and a child who has the opportunity to be adopted.

The Chair (Mr. Shafiq Qaadri): Mr. Prue?

Mr. Michael Prue: Many children are taken into care because their parents are unable to care for them. It sometimes takes a while to get your head around things. If the problem is alcohol or drugs or mental depression or any other number of things, 30 days goes pretty fast. It seems that we have to err on the side of allowing people an opportunity to get themselves in order. Getting their thought processes working well, getting the necessary supports and legal requirements, and meeting them all within 30 days is very, very difficult and will be very difficult for a number of people whose children may be

removed from them. This seems sane and sensible, in extending that to 60 days. It is, after all, just two months.

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I think you're going to see some of the same feelings that were expressed in this committee expressed over and over again, with the consequences that the children were taken away from them before they even had a chance to defend themselves or their position.

I'm asking for you to think this through. Do you want Ontarians, good and decent people, to come in here with the kinds of stories that you heard in two days of hearings? Do you want that to continue, or do you want to give them every opportunity to come forward to protect their interests? I think we should do that.

The Chair (Mr. Shafiq Qaadri): Fair enough. Any further comments? We'll proceed then to the vote—

Mr. Michael Prue: On a recorded vote, please.

Ayes

Jones, Prue, Witmer.

Nays

Colle, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 13 is defeated.

NDP motion 14?

Mr. Michael Prue: I withdraw.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Government motion 15?

Mr. Mike Colle: I move that paragraph 2 of subsection 145.1.1(4) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by striking out "with the person's lawyer of record or".

If I could just explain: At the time of giving notice, there is no lawyer of record. The lawyer who was a party's lawyer in a child protection proceeding is no longer that person's lawyer of record. The concern is that notice could be given improperly under subsection 145.1.1(4). A society thinking that a lawyer is still a person's lawyer of record may give the notice to that lawyer, and the person him- or herself may never become aware of the notice. That could, for example, lead to a parent not receiving notice that his or her child will be placed for adoption and that his or her access rights will terminate. So it is an important clarification to make in changing the language here.

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 15? Seeing none, we'll proceed to the vote.

Those in favour of government motion 15? Those opposed? Government motion 15 is carried.

PC motion 16?

Ms. Sylvia Jones: I move that section 145.1.1 of the Child and Family Services Act be amended by adding the following subsection:

"Children's Lawyer

"(7) The Children's Lawyer may provide legal representation to a child who receives notice under subsection (2) if, in the opinion of the Children's Lawyer, such legal representation is appropriate."

I think this was something that we heard from a number of deputations that just wanted to ensure that minors had the opportunity for independent legal advice, so that they knew what they were entering into in terms of future possibilities for their selves.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: We have put forward a similar motion, number 17, and I will support this motion.

It was the Ontario Association of Children's Aid Societies that asked for this amendment, and it seems to me that children who have access orders to another child, who will receive notice of intent to place for adoption—this motion ensures that children can have access to legal representation.

It would seem it's one of the hallmarks of our society to make sure that children can act in their own best interest. Particularly, we have noted in the legislation that there are various ages, but some of them can be as young as seven years of age—knowing what that child wants and acting in the best interests of the child, even if those interests may not be the same as the society's, and/or their parents'.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Colle?

Mr. Mike Colle: We cannot support the motion, but the ministry has discussed this issue with representatives from the Ministry of the Attorney General and plans to convene a meeting with representatives from the Ministry of the Attorney General and the Office of the Children's Lawyer to explore non-legislative options regarding legal representation of children in openness proceedings as would be the norm. So they are going to undertake discussions in a non-legislative way to see if they can deal with this.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Okay. So once again, we're going to have a meeting. My amendment would ensure that it's not "In some time, maybe in the future world, perhaps, if you're so inclined." This would actually put it in legislation.

Obviously, I think that individuals who are trying to adopt and children who are going through the process need to have some consistency in terms of knowing that they can ask and they can expect and they can receive independent legal advice. I think it's incumbent on the provincial government to provide that.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Prue.

Mr. Michael Prue: It is a hallmark of our society that people are entitled to legal representation when they go before any court or quasi-judicial body. This merely states that the child would have that same right.

I find it passing strange that we would separate children out from adults. We would say, "Once you turn 18 years of age, you have every legal right to have a lawyer,

but before that, you don't have that right." If the child is of an age that it is difficult for the child to discern what is best for them, surely having a lawyer from the Children's Lawyer department, someone who is versed in what is best for the child, who would sit down and discuss this, in many cases, with the child to find out what the child wants and frame it in legal terms, is a good thing.

I do not understand the reluctance. I know that we're going to have some discussions maybe, sometime, perhaps, but to give somebody an unfettered right which every other person enjoys—to be informed of their right to obtain and instruct legal counsel—should not be tied to one's age.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Mr. Colle?

Mr. Mike Colle: Again, there's already a discussion taking place with the Ministry of Children and Youth Services and the Attorney General. They are going to proceed to further discuss this in a comprehensive way with the Children's Lawyer to see how they can remedy this. That is under way.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote. Those in favour of PC motion 16? Those opposed? PC motion 16 is defeated.

NDP motion 17.

Mr. Michael Prue: It is identical to 16. I withdraw it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue.

PC motion 18?

Ms. Sylvia Jones: Yes, Chair, if I could have clarification, I believe this is a consequential amendment and therefore would have to be withdrawn because the previous—you get it. I withdraw—because I have to, not because I want to.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. PC motion 18 is withdrawn.

NDP motion 19?

Mr. Michael Prue: Motion 19, for the same reasons—it's the same motion—withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 19 is withdrawn.

PC motion 20?

Ms. Sylvia Jones: Again, a consequential amendment, so I have to withdraw.

The Chair (Mr. Shafiq Qaadri): Ms. Jones, thank you. PC motion 20 is withdrawn.

NDP motion 21?

Mr. Michael Prue: It's again the same, so withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 21 is withdrawn.

NDP motion 22: Mr. Prue.

Mr. Michael Prue: I move that subsection 145.1.2(6) of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

"Openness order

"(6) The court may make an openness order under this section in respect of a child if it is satisfied that,

"(a) the openness order is in the best interests of the child;

"(b) the child has consented to the order, if he or she is seven years of age or older; and

"(c) the child's consent is given after the child has had an opportunity to obtain counselling and independent legal advice with respect to the consent."

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This was requested by the Provincial Advocate for Children and Youth, and it is to ensure that children aged seven or more consent to an openness order. There's a notation as well that a child of seven or more must give consent for adoption, and they must have access to legal representation or counselling in order to make what would be the hugest decision by a seven-year-old child that could possibly be made.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 22? Mr. Colle.

Mr. Mike Colle: The age of consent, 12 years, is consistent with other sections of the Child and Family Services Act and supports what experts have advised. Consent being contingent on receipt of counselling and independent legal advice is not consistent with other sections of the Child and Family Services Act. We cannot support it.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 22?

Mr. Michael Prue: Just a recorded vote.

Ayes

Prue.

Nays

Colle, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 22 is defeated.

PC motion 23: Ms. Jones.

Ms. Sylvia Jones: I move that subsection 145.1.2(6) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following clause:

"(c) the child's consent is given after the child has had an opportunity to obtain counselling and independent legal advice with respect to the consent."

Again, it was recommended by the Provincial Advocate for Children and Youth. I think it's incumbent on us to ensure that children have an opportunity to actually ask, in an unbiased, open environment, the questions that they need or want answered prior to proceeding with adoption.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Mike Colle: We cannot support it. Consent being contingent on receipt of counselling and independent legal advice is not consistent with other sections of the Child and Family Services Act.

The Chair (Mr. Shafiq Qaadri): Any further comments? We'll proceed, then, to the vote on PC motion 23.

Those in favour? Those opposed? PC motion 23 is defeated.

PC motion 24?

Ms. Sylvia Jones: I move that subsection 145.1.2(6)(c) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following clause:

"(c) the ability of the person to whom the openness order would be granted to understand and accept the termination of parenting rights or other access rights, to understand the nature of the adoption and to foster the permanence of the adoption placement."

This was a recommended—

The Chair (Mr. Shafiq Qaadri): Pardon?

The Clerk of the Committee (Mr. Trevor Day): That was 24.1 that you were doing?

Ms. Sylvia Jones: Oh. No, I'm sorry.

Interjections.

The Chair (Mr. Shafiq Qaadri): So I will once again invite you, Ms. Jones, to present PC motion 24.

Ms. Sylvia Jones: Motion 24.1 or—

The Clerk of the Committee (Mr. Trevor Day): Motion 24.

Ms. Sylvia Jones: Sorry. Too many pieces of paper.

The Chair (Mr. Shafiq Qaadri): PC motion 24, Ms. Jones.

Ms. Sylvia Jones: I move that subsection 145.1.2(6) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following clause:

"(c) the person with whom the society has placed or plans to place the child for adoption or, after the adoption order is made, the adoptive parent, has the ability to comply with the arrangement under the openness order and has consented to the order."

The Chair (Mr. Shafiq Qaadri): Mr. Colle?

Mr. Mike Colle: It makes the prospective parents move into potentially contentious court proceedings, if this were to take place. This amendment would give the prospective adoptive parents the power to veto the proposed openness order, despite any other evidence before the court. Continuing to add conditions as to what the court may think is appropriate under an openness order is prohibitive.

Ms. Sylvia Jones: I respectfully disagree. I think, in fact, this encouragement, or allowing adoptive parents to be integral to the process, is actually what we're seeing open adoptions move towards. We're just trying to ensure that the legislation is keeping up with what is happening in many adoptions across Ontario and, in fact, Canada.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: I want it noted that this amendment was requested by the Ontario Association of Children's Aid Societies, and they feel that it was necessary, in order to have adoptive parents—they'd have to be able to and have consented to comply with the order. It does not seem to be prohibitive to me; it is merely one aspect that has to be looked at before you proceed with the adoption: Are the adoptive parents able to fulfill what they've said they're doing, and do they consent to comply with the order that is before them? If they're going to say they won't comply, what are we doing?

The Chair (Mr. Shafiq Qaadri): Fair enough. PC motion 24: Those in favour? Those opposed? PC motion 24 is defeated.

We'll proceed now to PC motion 24.1.

Ms. Sylvia Jones: I move that subsection—

Mr. Michael Prue: On a point of privilege, Mr. Chair: I do not believe I have one.

The Chair (Mr. Shafiq Qaadri): We will endeavour to provide you, Mr. Prue, with PC motion 24.1.

Mr. Michael Prue: As I knew you would.

The Chair (Mr. Shafiq Qaadri): May I confirm, Mr. Prue, receipt of PC motion 24.1? Mr. Prue, do you have it?

Mr. Michael Prue: I do now have it, yes. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: I move that subsection 145.1.2(6)(c) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following clause:

"(c) the ability of the person to whom the openness order would be granted to understand and accept the termination of parenting rights or other access rights, to understand the nature of the adoption and to foster the permanence of the adoption placement."

This was an amendment suggested to us by the Ontario Bar Association. Again, it talks about the change that is, quite frankly, happening with more openness in adoptions. This would encourage that.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on PC motion 24.1?

Mr. Mike Colle: I'm not in support of this amendment, as this is already covered when the court determines what is in the best interests of the child.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote on PC motion 24.1. Those in favour? Those opposed? PC motion 24.1 is defeated.

PC motion 25.

Ms. Sylvia Jones: I move that subsection 145.1.2(7) of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

"Same

"(7) In deciding whether to make an openness order under this section, the court shall consider whether the openness order would permit the continuation of a relationship with a person that is beneficial and meaningful to the child."

I trust it's self-explanatory.

The Chair (Mr. Shafiq Qaadri): It is certainly self-explanatory and it's also out of order, Ms. Jones, as it's dependent on PC motion 24. So I'll just consider that officially withdrawn.

I'll now invite the government to propose government motion 26.

Mr. Mike Colle: I move that subsections 145.1.2(6) and (7) of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

"Openness order

"(6) The court may make an openness order under this section in respect of a child if it is satisfied that,

"(a) the openness order is in the best interests of the child;

"(b) the openness order will permit the continuation of a relationship with a person that is beneficial and meaningful to the child; and

"(c) the child has consented to the order, if he or she is 12 years of age or older.

"Same

"(7) In deciding whether to make an openness order under this section, the court shall consider the ability of the person with whom the society has placed or plans to place the child for adoption or, after the adoption order is made, the adoptive parent to comply with the arrangement under the openness order."

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Just to explain this as best I can, as the bill is currently written, the issue of whether the relationship is beneficial and meaningful to the child is a condition when a court is making an order to vary or terminate an openness order, but is a consideration when the court is making the original openness order under section 145.1.2. Under section 145.1, where openness orders are made on the consent of all parties, it is a condition of making the order, and that order would permit the continuation of a relationship that is beneficial and meaningful to the child.

With the proposed amendment, the conditions would be consistent for making, varying and terminating openness orders under the Child and Family Services Act.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Further comments on government motion 26? Mr. Prue.

Mr. Michael Prue: It seems to me that what is being proposed here by the government is not exactly what the OACAS wanted. It does go partway—I would admit that—but it seems to be a little bit of a wishy-washy amendment, doing partially what was requested.

Could the government indicate why you decided not to go along with what was suggested by the Progressive Conservatives and do exactly what the OACAS said would be in the best interests of the adoption process?

Mr. Mike Colle: Again, this is an attempt to try to consider all the complexities in doing essentially what is most reasonable and practical within this legal framework. It was thought that this would be the best way of addressing that.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. We'll proceed, then, to the vote. Those in favour of government motion 26? Those opposed? Carried.

Shall section 6, as amended, carry? Carried.

Shall section 7 carry? Carried.

NDP motion 27.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"7.1 The act is amended by adding the following section:

"'Financial assistance

"'147.1 The government of Ontario shall, in accordance with the regulations, provide financial assistance to an adoptive parent of the following:

"'1. A child with a special need.

"'2. A child who is two years of age or more.'"

The Chair (Mr. Shafiq Qaadri): Mr. Prue, I'll need to intervene at this moment and inform you that this is a money bill and, therefore, out of order. Do you need any further explanation?

Mr. Michael Prue: I understand it's a money bill, but I also understand that this was recommended by the expert panel and by almost every single stakeholder who came before us.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. NDP motion 27 is out of order.

We'll then proceed to consider the next sections, for which I understand we have not received any amendments, including 8 to 11. If that's favourable, shall sections 8 to 11, inclusive, carry? Carried.

We'll proceed now to PC motion 28.

Ms. Sylvia Jones: I move that the bill be amended by adding the following section:

"11.1 The act is amended by adding the following section:

"'Supports and services

"'159.1 An adoptive parent shall have access in the same manner as a biological parent to the supports and services for his or her child that are prescribed by the regulations.'"

If I may—

The Chair (Mr. Shafiq Qaadri): Ms. Jones, I'll need to intervene to politely inform you that it is beyond the scope of this bill—and you're welcome to have a deeper explanation, should you like it.

Ms. Sylvia Jones: I don't want a deeper explanation, thank you.

I would like to share with the committee an email of a family that is dealing with this problem. Basically, they have one level of government telling them that because their child is adopted, they cannot apply, or they're getting some of their assistance pulled. The children that they have adopted are all with special needs, and I just think it's a shameful situation, where if they were biological children, they would be able to apply, and they haven't been able to as a result of some benign rules that are in place right now.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. To repeat, PC motion 28 is out of order and thus withdrawn.

NDP motion 29.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"11.1 Section 215 of the act is amended by adding the following clause:

"'(a.1) respecting residential placements for the purposes of section 27.1;'"

The Chair (Mr. Shafiq Qaadri): Again, we'll need to rule NDP motion 29 out of order, and the arcana justifying this is that section 215 is not open. Are you content, Mr. Prue, with that explanation?

Mr. Michael Prue: I don't have any option but to be content. But I do want to state that this is a regulation-making authority for extending foster care above age 18, which every single person who came before us was trying to do.

The Chair (Mr. Shafiq Qaadri): I agree with you, Mr. Prue; it is enforced contentment, but I thank you for accepting it nevertheless. NDP motion 29 is withdrawn.

We now move to the next section. PC motion 30.

Ms. Sylvia Jones: I move that subsection 216(2) of the act, as set out in subsection 12(2) of the bill, be struck out and the following substituted:

"Same

"(2) The minister may make regulations,

"(a) prescribing the care and maintenance that may be provided to persons under section 71.1, and the terms and conditions on which the care and maintenance may be provided;

"(b) prescribing full-time education programs for the purposes of subsection 71.1(5)."

The Chair (Mr. Shafiq Qaadri): Ms. Jones, with accumulating regret I will need to inform you that PC motion 30 is out of order, having depended on the passage and acceptance of PC motion 8 earlier.

Ms. Sylvia Jones: I will begrudgingly withdraw.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones.

Government motion 31.

Mr. Mike Colle: I move that subsection 216(2) of the act, as set out in subsection 12(2) of the bill, be struck out and the following substituted:

"Same

"(2) The minister may make regulations,

"(a) prescribing the care and maintenance that may be provided to persons under section 71.1, and the terms and conditions on which the care and maintenance may be provided;

"(b) prescribing support services for the purposes of subsection 71.1(3)."

The bill would amend section 71.1 of the Child and Family Services Act to refer to support services prescribed by regulations. This amendment will allow the minister to make the necessary regulations describing the support services needed.

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 31? We'll proceed to the vote. Those in favour of government motion 31? Those opposed? Government motion 31 is carried.

Shall section 12, as amended, carry? Carried.

NDP motion 32.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"12.1 Section 220 of the act is amended by adding the following clause:

"'(c.0.1) respecting financial assistance for the purposes of section 147.1;'"

The Chair (Mr. Shafiq Qaadri): Mr. Prue, I need to intervene and inform you that section 220 is not open and thus out of order.

I will take that silence as an implicit agreement to withdraw.

NDP motion 32.

Mr. Michael Prue: I'm not going to mutter those words myself.

The Chair (Mr. Shafiq Qaadri): I'd now invite PC motion 33.

Ms. Sylvia Jones: Chair, this is a consequential amendment. I will regrettably withdraw.

The Chair (Mr. Shafiq Qaadri): Your begrudgement is accepted.

Shall section 13 carry? Carried.

Shall section 14's short title carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 179, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Are there any further questions or comments that committee members would like to make at this time? Ms. Jones?

Ms. Sylvia Jones: Just very briefly: As we talked about when this bill was brought forward for time allocation, at that point both the Progressive Conservatives and the NDP said that they would not hold up this bill, and I think today's committee has proven that in fact that bullying technique of moving forward on the changes with the House leader was unnecessary.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, I'd like to thank all members of the social policy committee for what is no doubt the last meeting of this particular mandate.

The committee is adjourned.

The committee adjourned at 1510.

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